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NOTATION

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11- 8-71	Filed MARSHAL'S RETURN ON SUMMONS executed 10-26-71 by serving Hon. Bob Bullock, Sec. of State, by delivering to Julie Joslin, Agent.
11- 8-71	Filed Plaintiffs' Notice to take the deposition of Ben Barnes, Lieutenant Governor, at 9:30 a.m., Dec. 2, 1971, in Austin, Texas.
11- 9-71	Filed Plaintiffs' Notice to take the deposition of Ben Barnes at 9:30 a.m., Dec. 2, 1971, in Austin, Tex. (With Certificate of Service).
11- 9-71	Filed Plaintiffs' Notice to take deposition of G. F. Mutscher, Speaker of the House of Representatives, at 1:30 p.m., Dec. 2, 1971, in Austin, Texas.
11- 9-71	Filed Plaintiffs' Notice to take deposition of Greg Hooser on the 3rd day of Dec., 1971, at 9:30 a.m. in Austin, Texas.
11- 9-71	Filed Plaintiffs' Notice to take the deposition of Carl Robin Teague at 2:00 p.m., Dec. 3, 1971, in San Antonio, Texas.
11-18-71	Filed MARSHAL'S RETURN ON DEPOSITION SUBPOENA executed 11-15-71 by serving Carl Robin Teague.
12-15-71	Mailed copy of docket sheet and all pleadings with transmittal letter to Judge Ingraham.
10-19-71	Filed COMPLAINT including request for three-judge court and issued SUMMONS (1).
11-15-71	Filed DEFENDANT'S COMPLAINT (ANSWER).
11-24-71	Filed Defendant's DEMAND FOR JURY TRIAL.
11-23-71	Filed Judge John R. Brown's Order designating Circuit Judge Irving L. Goldberg and District Judge W. M. Taylor, Jr. to serve with Judge Hill.
12- 5-71	Filed PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANTS JURY DEMAND.
12-14-71	Filed Judge John R. Brown's Order reconstituting 3-Judge Court, as follows: Circuit Jude Joe Ingraham, District Judge W. M. Taylor, Jr. and Judge Robert M. Hill.
1- 6-72	Filed PLAINTIFFS' AMENDED COMPLAINT. (Copies to the 3 Judges).
1-12-72	Filed CERTIFICATE OF SERVICE as to Amended Complaint.
1-14-72	Filed PLAINTIFFS' BRIEF with APPENDIX.
1-14-72	Filed DEPOSITION OF REP. DELWIN L. JONES.
1-14-72	Filed ORAL DEPOSITION OF BEN BARNES.
1-14-72	Filed ORAL DEPOSITION OF GREGORY DREW HOOSER.
1-14-72	Filed ORAL DEPOSITION OF CARL ROBIN TEAGUE.
1-19-72	Filed STIPULATIONS re Clyde Haynes and Charles Wilson.
1-19-72	Filed AFFIDAVIT OF John T. Potter.
1-20-72	Filed MOTION TO INTERVENE AS PLAINTIFF of M. O. Turner, Mrs. Lois White, Richardson B. Gill, Mrs. Mary Louise Pino and Mrs. Mary Martin Jackson.
1-21-72	Filed DEPOSITION OF ZAN WESLEY HOLMES.
1-21-72	Filed DEPOSITION of Oscar H. Mauzy.
1-21-72	Filed OPINION AND ORDER. This Court holds that S.B. 1 is unconstitutional; defendant is enjoined from conducting or permitting any primary of general elections based upon the districts established by S.B. 1. Leave to intervene is granted to Van Henry Archer, Jr., individually and as Chairman of the Bexar County Republican Party, to the extent stated by the attorney for intervenors in open court. Plan C is adopted and declared to be in effect and operative. Maintenance of this cause as a class action is denied. This judgment is considered, for purposes of appeal and otherwise, as a final judgment in this case, and no stay of proceedings pending appeal will be granted. Copies mailed to the Governor, Lt. Governor, Speaker of the

	House of Representatives, Secretary of State and Attorney General of the State of Texas. Copies given to all attorneys of record.
1-22-72	Filed COMPLAINT IN INTERVENTION, with exhibits.
1-24-72	Filed PRE-TRIAL ORDER. (Signed 1-21-72). Copies mailed to counsel.
1-25-72	Filed ORDER amending Opinion and Order of Jan. 22. 1972. to rectify clerical errors as to Congressional Districts 10 and 24. Copies mailed to the Governor, Lt. Governor, Speaker of the House of Representatives Secretary of State and Attorney General of the State of Texas and to all attorneys of record.
3-21-72	Filed NOTICE OF APPEAL TO THE SUPREME COURT OF U.S. By Bob Bullock, Sec. of State of Texas.
3-21-72	Filed DESIGNATION AND CERTIFICATION OF RECORD.

APPENDIX

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1972

No. 71-1623

BOB BULLOCK, *etc.*,

Appellant

vs.

DAN WEISER, *et al.*,

Appellees

Appeal from the United States District Court
for the Northern District of Texas

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAN WEISER, DONALD COLEMAN,
JOHN L. EDWARDS, HUGH ELLIOTT,
JOHN W. FLETCHER, JOHN R. KARR,
JOYCE V. KARR, BENJAMIN NEWCOMB,
NORMA PALMER, MARVIN ZIMET,
Plaintiffs

No. CA-3-5202-A

VS.

HONORABLE BOB BULLOCK,
SECRETARY OF STATE OF
THE STATE OF TEXAS,
Defendant

COMPLAINT
[filed, October 18, 1971]

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME DAN WEISER and the other individuals named as Plaintiffs above, on behalf of themselves and others similarly situated comprising the class hereinafter defined, and complaining of the Honorable Bob Bullock in his capacity as Secretary of State of the State of Texas, hereinafter called Defendant, would for cause of action respectfully show:

I.
PARTIES — CLASS ACTION

Plaintiffs:

Plaintiff—Residence	Congressional District Per S.B. 1
DAN WEISER 3851 Rugged Circle Dallas, Texas	6th

DONALD COLEMAN 2412 Thirteenth Street Lubbock, Texas	19th
JOHN L. EDWARDS 1930 Dancliff Dallas, Texas	6th
HUGH ELLIOTT 3515 Cranbrook Wichita Falls, Texas	13th
JOHN FLETCHER 2701 22nd, No. 3 Lubbock, Texas	19th
JOHN R. KARR 520 Prospect El Paso, Texas	16th
JOYCE V. KARR 520 Prospect El Paso, Texas	16th
BENJAMIN NEWCOMBE 3905 B 21st Street Lubbock, Texas	19th
NORMA PALMER 206 Mary Drive Iowa Park, Texas	13th
MARVIN ZIMET 6200 Pinehurst El Paso, Texas	16th

All Plaintiffs are qualified and duly registered to vote in elections for the United States House of Representatives in their respective districts.

Class Action:

Plaintiffs sue on behalf of themselves and all other qualified voters, registered and unregistered, within the several districts wherein the respective Plaintiffs

reside as well as all other qualified voters in all other congressional districts in the State of Texas.

That the number of persons comprising the class so defined is so numerous as to make it impossible to bring them before the Court. That Plaintiffs, as qualified and registered voters, are fairly representative of the class as defined.

That by virtue of the foregoing, this action is properly brought by these Plaintiffs as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

Defendant:

The Defendant Bob Bullock is the duly qualified and acting Secretary of State of the State of Texas. That by the provisions of Article 1.03 of the Texas Election Code (Acts, 60th Leg., Ch. 723, p. 1860 §3, 1967) he is, by virtue of his office, the chief election officer of the State of Texas and is charged with the duty, *inter alia*, of " . . . obtain[ing] and maintain[ing] uniformity in the application, operation and interpretation of the election laws." Said Defendant may be served at his offices in the State Capitol Building in Austin, Texas.

That pursuant to the provisions of 28 U.S.C. §2284, Notice of hearings in this suit must be given to the Honorable Preston Smith, Governor of the State of Texas at his office or official residence in Austin, Texas, and to the Honorable Crawford Martin, Attorney General of the State of Texas at his office in Austin, Texas.

II.
JURISDICTION

Plaintiffs, on behalf of themselves and others simi-

larly situated, sue to have the Texas statute establishing congressional districts for the State of Texas (S.B.1, Acts 62nd Leg., 1971) declared violative of Article I §2 of the Federal Constitution and of the XIVth Amendment, §§ 1 & 2 to the Federal Constitution, and to enjoin its enforcement and the conduct of elections thereunder. Thus, this Court has jurisdiction, sitting as a three-judge Court under Title 28 of the U. S. Code, §1343 and §2281.

III.

CAUSE OF ACTION UNDER ARTICLE I §2

A. That under ARTICLE I §2, Cl. 3 of the Federal Constitution, as a result of the 1970 decennial federal census, the State of Texas was apportioned twenty-four members of the United States House of Representatives.

B. That the 62nd Legislature of the State of Texas enacted S.B.1 appended hereto as Exhibit A and herewith incorporated by reference for all purposes as though set forth at length herein. That said statute divides the State into twenty-four congressional districts and provides that one member of the House of Representatives shall be elected from each district.

C. That said statute provides that it will become effective for the general election in 1972, and, by implication, for the primary elections to be held by the Democratic and Republican parties of Texas prior thereto pursuant to Article 13.02 of the Texas Election Code (Acts 52nd Leg., Ch. 492, p. 1097, Art. 180, 1951).

D. That Article I, §2 of the Federal Constitution requires that such congressional districts be as compact, contiguous and as nearly equal in population as is practicable so that the vote cast by each voter will be equal in weight to the vote of every other voter.

E. That the congressional districts established by S.B.1 are not as compact, contiguous and as nearly equal in population as is practicable, and therefore said statute violates on its face Article I §2 of the Federal Constitution. Thus, Plaintiffs, and others similarly situated are deprived of their Constitutional right to have their vote count for as much as every other voter.

F. In support of the foregoing, Plaintiffs show:

(1) that the population of the State of Texas, according to the 1970 federal census, was eleven million, one hundred ninety-six thousand, seven hundred and thirty (11,196,730) persons;

(2) that mathematically, each congressional district should contain four hundred sixty-six thousand, five hundred and thirty (466,530) persons;

(3) that the district containing the largest population according to the census is the Thirteenth (13th) District, which contains four hundred seventy-seven thousand, eight hundred and fifty-six (477,856) persons, or eleven thousand, three hundred and twenty-six (11,326) persons more than a numerically equal district;

(4) that the district containing the smallest population according to the census is the Fifteenth (15th) District, which contains four hundred fifty-eight thousand, five hundred and eighty-one (458,581) persons, or seven thousand, nine hundred and forty-nine (7,949) persons less than a numerically equal district;

(5) that expressed in percentages, the population of the Thirteenth (13th) District is 2.4% greater than a numerically equal district; and the population

of the Fifteenth (15th) District is 1.7% less than a numerically equal district;

(6) that the population of the largest district is greater than the smallest district by nineteen thousand, two hundred and seventy-five persons; or, expressed in percentages, 4.1% greater;

(7) that the vote of a voter in the Thirteenth (13th) District is worth only 96% of the vote of a voter in the Fifteenth (15th) District;

(8) that the population of each district established by S.B.1, according to the federal decennial census, together with its deviation from the mathematically equal district, expressed numerically and in percentages, is shown by the following table, viz.

District	Population	Differences (+ or −)	% Difference
1	461,879	−4651	1.00
2	466,836	+306	.01
3	465,221	−1309	.28
4	463,142	−3388	.73
5	465,093	−1437	.31
6	467,913	+1383	.30
7	461,704	−4826	1.03
8	461,216	−5314	1.14
9	467,483	+953	.20
10	465,493	−1037	.22
11	468,148	+1618	.35
12	465,671	−859	.18
13	477,856	+11,326	2.43
14	467,839	+1309	.28
15	458,581	−7949	1.70
16	477,614	+11,084	2.38
17	467,912	+1382	.30
18	462,062	−4468	.96

19	477,459	+10,929	2.34
20	467,942	+1412	.30
21	466,656	+126	.03
22	461,448	−5082	1.09
23	466,248	−282	.06
24	465,314	−1216	.26

G. That the districts created by S.B.1 were created as a result of political expediency, to perpetuate in office those Representatives whose political philosophy coincided with that of the dominant forces in the State legislature, to create "safe seats" for those of a like mind, to provide a political denouement for past political favors or grievances, to neutralize the votes of ethnic or economic blocs, and with only minimal regard to the constitutional mandate of "one man, one vote."

H. That the legislature desired to enact a statute consonant with the mandate of Article I §2 of the Federal Constitution, it could have drawn twenty-four districts having almost the same geographic boundaries whereby the population difference between the largest and smallest is only six hundred ninety-six (696) persons, or .1 percent (0.001). Such a plan is annexed hereto as Exhibit B, and herewith incorporated by reference for all purposes as thought set forth at length herein.

I. That under S.B.1, the Eighteenth (18th) District purporting to encompass the central portion of Houston, in Harris County, duplicates census tract number 121, containing three thousand, seven hundred nineteen (3,719) persons and wholly omits census tract number 122 containing four thousand, six hundred twenty-seven (4,627) persons. That the effect of such omission is to wholly disenfranchise in congressional elections the otherwise qualified voters residing in

said census tract and to understate the population of said district by nine hundred and eight (908) persons. That such error is not made in the plan advocated by Plaintiffs contained in Exhibit B.

J. That under S.B.1, the Twenty-Second (22nd) District purporting to encompass the south and southeast portion of Harris County (Houston), duplicates census tract number 334 containing five thousand, five hundred fifty-nine (5,559) persons and wholly omits census tract number 344 containing one thousand, seven hundred and six (1,706) persons,. That the effect of such omission is to wholly disenfranchise in congressional elections the otherwise qualified voters residing in said census tract and to overstate the population of said district by three thousand eight hundred and fifty-three (3,853) persons. That such error is not made in the plan advocated by Plaintiffs contained in Exhibit B.

K. That the population of each district under Plaintiffs' plan, according to the federal decennial census, together with its deviation from the mathematically equal district, expressed numerically, is shown by the following table, viz.

District	Population	Differences (+ or −)
1	466,545	+ 15
2	466,565	+ 35
3	466,266	−264
4	466,234	−296
5	466,620	+ 90
6	466,285	−245
7	466,336	−194
8	466,704	+174
9	466,678	+148
10	466,313	−217

11	466,258	−272
12	466,930	+400
13	466,663	+133
14	466,437	− 93
15	466,359	−171
16	466,663	+133
17	466,432	− 98
18	466,520	− 10
19	466,649	+119
20	466,514	− 16
21	466,753	+223
22	466,707	+177
23	466,424	−106
24	466,875	+345

Percentage deviation is so small as to be of no significance, and is therefore omitted.

IV.

CAUSE OF ACTION UNDER XIVTH AMENDMENT

Plaintiffs adopt by reference the allegiations of Paragraph III hereof.

Plaintiffs further allege:

A. That it constitutes an invidious discrimination in favor of those residents of less populous districts over those residents of more populous districts;

B. that the plan embodied therein is wholly arbitrary and irrational when measured by constitutional requirements of equality.

That for these reasons S.B.1 denies Plaintiffs and those similarly situated equal protection of the law, which denial is forbidden by §1 of the XIVth Amendment to the Federal Constitution.

V.

RELIEF

WHEREFORE, Plaintiffs pray:

1. That Defendant be cited to appear and answer herein.

2. That the Court enter an Order pursuant to Rule 23, F.R.C.P. adjudging this suit to be a class action on behalf of all qualified voters in the State of Texas.

3. That a three-judge Court be convened pursuant to 28 U.S.C.A. §2284.

4. That a preliminary injunction issue restraining and enjoining the Defendant from conducting or causing to be conducted any general or primary elections to fill congressional seats based upon the districts established in the said statute.

5. That upon final hearing said statute be adjudged and declared unconstitutional and therefore void.

6. That upon final hearing a permanent injunction issue upon the same terms as the preliminary injunction.

7. That appropriate orders issue upon final hearing directing the legislature of the State of Texas to enact a law creating congressional districts which meet the requirements of the Federal Constitution.

8. That if the legislature fails to enact a law creating congressional districts which meet the requirements of the Federal Constitution, the plan promulgated by Plaintiffs be adopted as the judgment of the Court and appropriate orders issued to require that all congressional elections be conducted thereunder until a constitutionally acceptable law is enacted.

9. In the alternative, if the legislature fails to enact a law creating congressional districts which meet the requirements of the Federal Constitution, that the Court enter appropriate orders to require that all congressional seats apportioned to the State of Texas be filled by at-large elections.

10. That all costs be adjudged against the Defendant; and that the Court retain jurisdiction to render such further order as may seem appropriate.

Respectfully submitted,
FISCHMAN, ROSENBERG, KASMIR & PRESTON
601 Kirby Building
1509 Main Street
Dallas, Texas 75201
744-5511
By: s/Lawrence Fischman
By: s/David H. Rosenberg

EXHIBIT A

S. B. No. 1

AN ACT

relating to reapportionment of congressional districts; repealing Chapter 342, Acts of the 60th Legislature, Regular Session, 1967 (Article 197c, Vernon's Texas Civil Statutes); and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. The State of Texas is apportioned into Congressional Districts as provided in the following sections. Each district is entitled to elect one Member to the House of Representatives of the Congress of the United States.

Sec. 2. District 1 is composed of Bowie, Camp, Cass, Cherokee, Delta, Fannin, Franklin, Harrison, Henderson, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, San Augustine, Shelby, Titus, Upshur, and Wood Counties.

Sect. 3. District 2 is composed of Anderson, Angelina, Freestone, Grimes, Hardin, Houston, Jasper, Leon, Liberty, Madison, Montgomery Nacogdoches, Newton, Orange, Polk, Sabine, San Jacinto, Trinity, Tyler, and Walker Counties.

Sec. 4. District 3 is composed of that part of Dallas County included in census tracts 192.05, 192.06, 192.07, 192.04, 192.03, 192.02, 192.01, 191, 190.02, 190.03, 185.02, 130.02, 130.01, 78.03, 78.02, 136.02, 136.03, 132, 133, 131,

78.01, 76.04, 77, 136.01, 96.04, 134.02, 76.03, 75.02, 137.04, 137.05, 138.01, 96.03, 96.02, 134.01, 135, 76.01, 76.02, 75.01, 74, 73.01, 73.02, 71.02, 4.03, 95, 94, 98, 97, 96.01, 138.02, 137.01, 137.02, 139, 140.01, 72, 6.01, 4.02, 4.01, 6.02, 5, 19, 100, 99, 137.03, 140.02, 142, 148, 147, 146, 145, 152, 149, 150, 151, 198, 143, 101, 102, 103, 104, 69, 68, 43, 44, 42, 20, 105, 106, 190.04, 195.01, 18, 7.01, and 41.

Sec. 5. District 4 is composed of Collin, Grayson, Hunt, Gregg, Kaufman, Rains, Rockwall, Smith, and Van Zandt Counties, and that part of Dallas County included in census tracts 181.01, 181.02, 181.03, 181.04, and 182.

Sec. 6. District 5 is composed of that part of Dallas County included in census tracts 190.01, 190.06, 190.07, 190.05, 189, 188, 185.01, 186, 187, 183, 184, 126, 127, 128, 129, 180, 125, 124, 82, 179, 123, 122.01, 81, 80, 1, 12, 79.01, 193.01, 193.02, 3, 2.02, 2.01, 10, 11.01, 11.02, 14, 15.01, 13.01, 13.02, 15.02, 22.02, 31.02, 30, 33, 34, 29, 35, 36, 28, 23, 24, 25, 26, 27.01, 27.02, 37, 38, 39.01, 39.02, 40, 83, 84, 85, 91.01, 91.02, 93.01, 93.02, 115, 122.02, 178.01, 178.02, 90.01, 90.02, 92.01, 121, 120, 119, 176.02, 176.01, 172, 175, 174, 177, 173.02, 173.01, 170, 194, 195.02, 71.01, 197, 196, 7.02, 9, 8, 16, 22.01, 17.01, 21, 31.01, 32.01, 32.02, 118, 92.02, 79.02, and 17.02.

Sec. 7. District 6 is composed of Brazos, Ellis, Hill, Johnson, Limestone, Navarro, and Robertson Counties; that part of Dallas County included in census tracts 164, 165.01, 165.02, 165.03, 165.04, 165.05, 166.04, 166.03, 166.02, 166.01, 109, 108, 61, 110, 111.01, 111.02, 112, 113, 167.01, 167.02, 168, 169.04, 169.01, 169.02, 169.03, 171, 116, and 117; and that part of Tarrant County included in census tracts 108.03, 109, 54.01,

55.01, 54.02, 42.01, 43, 42.02, 48.01, 47, 56, 48.02, 55.02, 57.01, 58, 59, 60.02, 60.01, 110.02, 57.02, 55.03, 55.04 and 110.01.

Sec. 8. District 7 is composed of that part of Harris County included in census tracts 558, 557, 554, 553, 552, 556, 555, 551, 545, 550, 549, 548, 547, 546, 544, 537, 538, 541, 540, 452, 451, 543, 542, 529, 528, 527, 526, 519, 517, 443, 442, 441, 444, 447, 448, 450, 449, 446, 445, 440, 421, 406, 420, 422, 439, 438, 437, 436, 423, 419, 424, 435, 407, 409, 408, 411, 418, 417, 416, 425, 426, 434, 429, 428, 427, 433, 430, 431, 432, 410, and 413, and that part of census tract 405 included in census block group 5.

Sec. 9. District 8 is composed of that part of Harris County included in census tracts 559, 244, 245, 243, 242, 536, 535, 241, 533, 240, 223, 531, 532, 222, 221, 224, 525, 524, 523, 522, 220, 218, 225, 217, 216, 215, 227, 208, 229, 228, 230, 214, 203, 209, 213, 231, 212, 202, 210, 211, 232, 233, 321, 320, 322, 350, 351, 352, 354, 234, 262, 261, 267, 268, 263, 265, 266, 270, 269, 271, 264, 361, 362, 273, 274, 272, 275, 364, 360, 363, 365, 530, 539, and 534.

Sec. 10. District 9 is composed of Chambers, Galveston, and Jefferson Counties and that part of Harris County included in census tracts 250, 249, 247, 238, 251, 248, 246, 252, 253, 237, 236, 254, 256, 255, 257, 258, 235, 259, 260, 226, and 239.

Sec. 11. District 10 is composed of Austin, Bastrop, Blanco, Burleson, Caldwell, Colorado, Fayette, Hays, Lee, Travis, Waller, and Washington Counties.

Sec. 12. District 11 is composed of Bell, Bosque, Burnet, Coryell, Falls, Hamilton, Hood, Lampasas,

McLennan, Milam, Mills, Parker, Somervell, and Williamson Counties.

Sec. 13. District 12 is composed of that part of Tarrant County not included in district 6 or 24.

Sec. 14. District 13 is composed of Archer, Armstrong, Baylor, Briscoe, Carson, Childress, Clay, Collingsworth, Cottle, Dallam, Dickens, Donley, Foard, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, King, Knox, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, and Wilbarger Counties.

Sec. 15. District 14 is composed of Aransas, Calhoun, Jackson, Matagorda, Nueces, Refugio, San Patricio, Victoria, and Wharton Counties, and that part of Brazoria County included in enumeration districts 108, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 153B, 158, 159, 160, and 160B.

Sec. 16. District 15 is composed of Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Starr, Willacy, and Zapata Counties.

Sec. 17. District 16 is composed of Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Presidio, Reeves, Ward, and Winkler Counties, and that part of Ector County not included in district 19.

Sec. 18. District 17 is composed of Borden, Brown, Callahan, Coleman, Comanche, Cooke, Crosby, Eastland, Erath, Fisher, Floyd, Garza, Haskell, Howard, Jack, Jones, Kent, McCulloch, Mitchell, Montague,

Nolan, Palo Pinto, San Saba, Scurry, Shackelford, Stephens, Stonewall, Taylor, Throckmorton, Wise, and Young Counties.

Sec. 19. District 18 is composed of that part of Harris County included in census tracts 219, 521, 520, 510, 518, 509, 207, 511, 513, 512, 507, 508, 206, 204, 205, 503, 506, 516, 514, 515, 505, 504, 502, 501, 201, 121, 401, 126, 121, 123, 402, 125, 403, 404, 124, 303, 302, 301, 311, 310, 312, 309, 313, 304, 306, 305, 316, 307, 308, 314, 315, 317, 330, 318, 328, and that part of census tract 405 not included in census block group 5.

Sec. 20. District 19 is composed of Andrews, Bailey, Castro, Cochran, Dawson, Deaf Smith, Gaines, Hale, Hockley, Lamb, Lubbock, Lynn, Martin, Midland, Parmer, Terry, and Yoakum Counties, and that part of Ector County included in census tracts 3, 4, 5, 6, 7, 24, and 25, and that part of census tract 21 East of U.S. Highway 385 and North of the Texas and Pacific Railroad.

Sec. 21. District 20 is composed of that part of Bexar County not included in district 21 or 23.

Sec. 22. District 21 is composed of Bandera, Coke, Comal, Concho, Crane, Crockett, Edwards, Gillespie, Glasscock, Irion, Kendall, Kerr, Kimble, Kinney, Llano, Mason, Menard, Pecos, Reagan, Real, Runnels, Schleicher, Sterling, Sutton, Terrell, Tom Green, Upton, Uvalde, and Val Verde Counties, and that part of Bexar County included in census tracts 1719, 1720, 1816, 1817, 1806, 1807, 1815, 1821, 1820, 1819, 1915, 1916, 1914, 1818, 1814, 1809, 1810, 1811, 1813, 1812, 1911, 1912, 1909, 1913, 1207, 1210, 1209, 1208, 1206, 1203, 1204, 1803, 1808, 1802, 1908, 1718, 1717, 1714, 1805, 1917, 1211, 1212,

1213, 1617, 1219, 1218, and 1215.

Sec. 23. District 22 is composed of Fort Bend County; that part of Brazoria County not included in district 14; and that part of Harris County included in census tracts 412, 414, 415, 331, 329, 332, 333, 334, 339, 340, 335, 338, 336, 337, 341, 343, 342, 319, 325, 326, 324, 334, 353, 355, 356, 349, 357, 358, 366, 348, 359, 347, 346, 345, 370, 367, 369, 368, 373, 374, 371, 372, 375, 327, and 323.

Sec. 24. District 23 is composed of Atascosa, Bee, DeWitt, Dimmit, Frio, Goliad, Gonzales, Guadalupe, Karnes, LaSalle, Lavaca, Maverick, Medina, Webb, Wilson, and Zavala Counties, and that part of Bexar County included in census tracts 1619, 1620, 1612, 1613, 1610, 1611, 1512, 1520, 1521, 1513, 1511, 1514, 1516, 1518, 1519, 1522, 1416, 1415, 1418, 1417, 1414, 1413, 1419, 1312, 1313, 1314, 1310, 1309, 1315, 1205, 1214, 1217, 1216, 1317, 1316, 1318, 1517, 1615, and 1618.

Sec. 25. District 24 is composed of Denton County; that part of Dallas County included in census tracts 153.01, 153.02, 144, 141.04, 141.03, 141.02, 154, 161, 141.01, 155, 160, 162, 156, 157, 159, 163, 158, 107, 67, 199, 65, 64, 45, 53, 52, 46, 47, 51, 50, 63.02, 62, 48, 54, 56, 49, 89, 55, 88, 86, 114.02, 87.01, 87.02, 57, 59.01, 59.02, 60.01, 63.01, 114.01, and 60.02, and that part of Tarrant County included in census tracts 65.05, 131, 130, 218, 217.02, 217.01, 216.02, 216.01, 65.04, 65.01, 14.01, 65.02, 65.03, 14.03, 13, 216.03, 115.01, 115.02, 222, 223, 225, 224, 221, 220, 219, 229, 228, 227, 226, 115.03, 115.04, 114, 111.02, 60.03, 112.02, 112.01, and 113.

Sec. 26. The terms "census tract" and "census enumeration district,"as used in this Act, mean those

geographic areas outlined and identified as such on official place, county, and metropolitan map series maps prepared by the United States Department of Commerce Bureau of the Census for the Nineteenth Decennial Census of the United States, enumerated as of April 1, 1970. "Block groups" are subdivisions of census tracts as defined on census metropolitan maps which differentiate block groups by the first digit of the block numbers assigned to city blocks within each tract.

Sec. 27. The Texas Legislative Council shall furnish to the Commissioners Court of each county which is divided into two or more districts appropriate maps showing census tract, census enumeration district, or census block group lines to facilitate the identification of district lines.

Sec. 28. Chapter 342, Acts of the 60th Legislature, Regular Session, 1967 (Article 197c, Vernon's Texas Civil Statutes), is repealed.

Sec. 29. Nothing in this Act affects the tenure in office of the present delegation in Congress, but this Act takes effect for the general election in 1972.

Sec. 30. The importance of this legislation and the crowded condition of the calendars in both Houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended.

Lieutenant Governor Speaker of the House

I hereby certify that S. B. No. 1 passed the Senate

on June 1, 1971, by a viva voce vote; June 2, 1971, Senate refused to concur in House amendments and requested appointment of Conference Committee; June 2, 1971, House granted request of the Senate; June 4, 1971, Senate adopted Conference Report by the following vote: Yeas 17, Nays 9, and one paired vote.

_____

Secretary of the Senate

I hereby certify that S. B. No. 1 passed the House on June 2, 1971, with amendments, by the following vote: Yeas 66, Nays 49; June 2, 1971, House granted request of the Senate for appointment of Conference Committee; June 4, 1971, House adopted Conference Report by the following vote: Yeas 80, Nays 53, and one present not voting.

_____

Chief Clerk of the House

Approved:

_____

Date

_____

Governor

EXHIBIT B

PROPOSED CONGRESSIONAL DISTRICTS

DISTRICT 1 is composed of Bowie, Camp, Cass, Cherokee, Delta, Fannin, Franklin, Harrison, Henderson, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, San Augustine, Shelby, Titus, Upshur, and Wood Counties; that part of Hunt County included in the Lone Oak census county division; and that part of Rains County included in the Emory census county division.

DISTRICT 2 is composed of Anderson, Angelina, Grimes, Hardin, Houston, Jasper, Leon, Liberty, Madison, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Jacinto, Trinity, Tyler and Walker Counties, and all of Freestone County not included in the Streetman Town part of the Wortham census county division.

DISTRICT 3 is composed of that part of Collin County included in the Nevada, Plano, and Wylie census county divisions; that part of Denton County included in the Lewisville census county division; and that part of Dallas County included in census tracts 1, 2.01, 2.02, 3, 6.01, 7.02, 9, 10, 11.01, 11.02, 71.01, 72, 73.01, 73.02, 74, 75.01, 75.02, 76.01, 76.02, 76.03, 76.04, 77, 78.01, 78.02, 78.03, 79.01, 79.02, 80, 81, 82, 94, 95, 96.01, 96.02, 96.03, 96.04, 97, 98, 99, 128, 129, 130.01, 130.02, 131, 132, 133, 134.01, 134.02, 135, 136.01, 136.02, 136.03, 137.01, 137.02, 137.03, 137.04, 137.05, 138.01, 138.02, 139, 140.01, 140.02, 141.01, 141.02, 141.03, 142, 143, 146, 147, 185.02, 190.02, 190.03, 190.04, 190.06, 191, 192.01, 192.02, 192.03, 192.04, 192.05, 192.06, 192.07, 193.01, 193.02, 194, 195.01,

195.02, 196, 197, and 198.

DISTRICT 4 is composed of Grayson, Gregg, Kaufman, Rockwall, Smith and Van Zandt Counties; that part of Collin County not included in District 3; that part of Cooke County included in the Gainesville North Callisburg census county division; that part of Denton County not included in District 3; that part of Hunt County not included in District 1; and that part of Rains County not included in District 1.

DISTRICT 5 is composed of that part of Dallas County not included in District 3 or 6 or 24.

DISTRICT 6 is composed of Brazos, Ellis, Hill, Johnson, Limestone, Navarro and Robertson Counties; that part of Freestone County not included in District 2; that part of Parker County included in the Weatherford Southeast and the Weatherford Southwest census county divisions; that part of Dallas County included in census tracts 60.01, 60.02, 61, 63.01, 108, 109, 110, 111.01, 111.02, 164, 165.01, 165.02, 165.03, 165.04, 165.05, 166.01, 166.02, 166.03, 166.04, 167.02, 168, 169.01, 169.02, 169.03 and 169.04; and that part of Tarrant County included in census tracts 60.03, 111.02, 112.01, 112.02, 108.03, 109, 54.01, 55.01, 54.02, 42.01, 43, 42.02, 48.01, 47, 56, 48.02, 55.02, 57.01, 58, 59, 60.02, 60.01, 110.02, 57.02, 55.03, 55.04 and 110.01.

DISTRICT 7 is composed of that part of Harris County included in census tracts 558, 557, 554, 553, 552, 556, 555, 551, 545, 550, 549, 548, 547, 546, 544, 537, 538, 541, 540, 452, 451, 543, 542, 529, 528, 527, 526, 519, 517, 443, 442, 441, 444, 447, 448, 450, 449, 446, 445, 440, 421, 406, 420, 422, 439, 438, 437, 436, 423, 419, 424, 435, 407, 409, 408, 411, 418, 417, 416, 425, 426, 434, 429, 428, 427, 433, 431, 432, 333, 413, 334, 536, and 430; and that

part of census tract 405 included in census block group 5.

DISTRICT 8 is composed of that part of Harris County included in census tracts 559, 244, 245, 243, 242, 535, 241, 533, 240, 223, 531, 532, 222, 221, 224, 525, 524, 523, 522, 220, 218, 225, 217, 216, 215, 227, 521, 229, 228, 230, 214, 203, 209, 213, 231, 212, 202, 210, 211, 232, 233, 321, 320, 322, 350, 351, 352, 354, 234, 262, 261, 267, 268, 263, 265, 266, 270, 269, 271, 264, 361, 362, 273, 274, 272, 275, 364, 360, 363, 365, 530, 539, 534, 254 and 353.

DISTRICT 9 is composed of Chambers, Galveston and Jefferson Counties and that part of Harris County included in census tracts 250, 249, 247, 238, 251, 248, 246, 252, 253, 237, 236, 256, 255, 257, 258, 235, 259, 260, 226 and 239.

DISTRICT 10 is composed of Austin, Bastrop, Blanco, Burleson, Fayette, Hays, Lee, Travis and Washington Counties; that part of Caldwell County included in the Martindale census county division; that part of Colorado County not included in the Garwood census county division; that part of Gonzales County included in the Waelder census county division; that part of Lavaca County included in the Moulton and Shiner census county divisions; that part of Waller County not included in the Brookshire census county division; and that part of Williamson County included in the Florence, Georgetown, Jarrell and Liberty Hill census county divisions.

DISTRICT 11 is composed of Bell, Bosque, Brown, Burnet, Coryell, Falls, Hamilton, Hood, Lampasas, McCulloch, McLennan, Milam, Mills, San Saba, and

Somervell Counties; that part of Coleman County not included in the Coleman census county division; that part of Comanche County included in the Gustine census county division; that part of Erath County included in the Stephenville South census county division; and that part of Williamson County not included in District 10.

DISTRICT 12 is composed of that part of Tarrant County not included in District 6 or 24.

DISTRICT 13 is composed of Archer, Armstrong, Briscoe, Carson, Childress, Clay, Collingsworth, Cottle, Dallam, Dickens, Donley, Foard, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, King, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita and Wilbarger Counties.

DISTRICT 14 is composed of Aransas, Calhoun, Jackson, Matagorda, Neuces, Refugio, San Patricio, Victoria and Wharton Counties; that part of Colorado County not included in District 10; and that part of Lavaca County not included in District 10.

DISTRICT 15 is composed of Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Starr, Willacy, and Zapata Counties; that part of Bee County included in the Pettus-Pawnee census county division; and that part of Karnes County included in the Kenedy census county division.

DISTRICT 16 is composed of Culberson, El Paso, Hudspeth, Loving, Presidio, Ward and Winkler Counties; that part of Jeff Davis County included in the

Valentine census county division; that part of Reeves County included in the Pecos census county division; and that part of Ector County not included in District 19.

DISTRICT 17 is composed of Baylor, Borden, Callahan, Crosby, Eastland, Fisher, Floyd, Garza, Haskell, Howard, Jack, Jones, Kent, Knox, Lynn, Mitchell, Montague, Nolan, Palo Pinto, Scurry, Shackelford, Stephens, Stonewall, Taylor, Throckmorton, Wise and Young Counties; that part of Coleman County not included in District 11; that part of Comanche County not included in District 11; that part of Cooke County not included in District 4; that part of Dawson County included in the Lamesa Southeast census county division; that part of Erath County not included in District 11; and that part of Parker County not included in District 6.

DISTRICT 18 is composed of that part of Harris County not included in District 7 or 8 or 9 or 22.

DISTRICT 19 is composed of Andrews, Bailey, Castro, Cochran, Deaf Smith, Gaines, Hale, Hockley, Lamb, Lubbock, Martin, Midland, Parmer, Terry and Yoakum Counties; that part of Dawson County not included in District 17; and that part of Ector County included in census tracts, 1, 2, 3, 5, 6, 7, 8, 9, 21, 24 and 25.

DISTRICT 20 is composed of that part of Bexar County not included in District 21 or 23.

DISTRICT 21 is composed of Bandera, Brewster, Coke, Comal, Concho, Crane, Crockett, Edwards, Gillespie, Glasscock, Irion, Kendall, Kerr, Kimble, Llano,

Mason, Menard, Pecos, Reagan, Real, Runnels, Schleicher, Sterling, Sutton, Terrell, Tom Green, Upton, and Val Verde Counties; that part of Jeff Davis County not included in District 16; that part of Medina County in the D'Harris and Hondo census county divisions; that part of Reeves County not included in District 16; and that part of Bexar County included in census tracts 1719, 1720, 1816, 1817, 1806, 1807, 1815, 1821, 1820,1819, 1915, 1916, 1914, 1818, 1814, 1809, 1810, 1811, 1813, 1812, 1911, 1912, 1909, 1913, 1207, 1210, 1209, 1208, 1206, 1203, 1204, 1803, 1808, 1802, 1908, 1718, 1717, 1714, 1805, 1917, 1211, 1212, 1213, 1617, 1219, 1218, and 1215.

DISTRICT 22 is composed of that part of Fort Bend Counties; that part of Waller County not included in District 10; and that part of Harris County included in census tracts 412, 414, 415, 331, 332, 329, 366, 339, 340, 335, 338, 336, 337, 341, 343, 342, 319, 325, 326, 324, 410, 355, 356, 349, 357, 358, 348, 359, 347, 346, 345, 370, 367, 369, 368, 373, 374, 371, 372, 375, 327, 323, and 344.

DISTRICT 23 is composed of Atascosa, DeWitt, Dimmit, Frio, Goliad, Guadalupe, Kinney, LaSalle, Maverick, Uvalde, Webb, Wilson and Zavala Counties; that part of Bee County not in District 15; that part of Caldwell County not in District 10; that part of Gonzales County not in District 10; that part of Karnes County not in District 15; that part of Medina County not in District 21; and that part of Bexar County included in census tracts 1619, 1620, 1612, 1613, 1610, 1611, 1512, 1520, 1521, 1513, 1511, 1514, 1516, 1518, 1519, 1522, 1416, 1415, 1418, 1417, 1414, 1413, 1419, 1312, 1313, 1314, 1310, 1309, 1315, 1205, 1214, 1217, 1216, 1317, 1316, 1318, 1517, 1615, 1618 and 1508.

DISTRICT 24 is composed of that part of Dallas

County included in census tracts 20, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59.01, 59.02, 62, 63.02, 64, 65, 67, 68, 69, 86, 87.01, 87.02, 88, 89, 101, 102, 103, 104, 105, 106, 107, 112, 113, 114.01, 114.02, 141.04, 144, 145, 151, 152, 153.01, 153.02, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 167.01 and 199; and that part of Tarrant County included in census tracts 135.01, 64, 65.05, 131, 130, 218, 217.02, 217.01, 216.02, 216.01, 65.04, 65.02, 65.03, 13, 216.03, 115.01, 115.02, 222, 223, 225, 224, 221, 220, 219, 229, 228, 227, 226, 115.03, 115.04, 114 and 113.

The terms "census tract" and "census county division" means those geographic areas outlined and identified as such on official place, county, and metropolitan map series maps prepared by the United States Department of Commerce Bureau of the Census for the Nineteenth Decennial Census of the United States, enumerated as of April 1, 1970. The population figures for counties and census county divisions are those published January, 1971, in the United States Department of Commerce publication PC (V1)—45 Texas, 1970 Census of Population, advance report, Final Population Counts. "Block groups" are subdivisions of census tracts as defined on census metropolitan maps which differentiate block groups by the first digit of the block numbers assigned to city blocks within each tract.

(Title Omitted in printing.)
[Filed, November 15, 1971]

DEFENDANT'S ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Bob Bullock, Secretary of State of the State of Texas, the Defendant in the above styled and numbered cause, represented herein by Crawford C. Martin, Attorney General of Texas, and in reply to Plaintiffs' Complaint files this his Answer and would respectfully show the Court as follows:

I.

Plaintiffs' Complaint fails to state a cause of action upon which relief can be granted.

II.

A. The Defendant admits the allegations contained in paragraphs A, B and C of paragraph III of Plaintiffs' Complaint.

B. The Defendant admits the allegations contained in subparagraphs (1) through (6) of paragraph F of paragraph III of Plaintiffs' Complaint.

C. The Defendant admits the allegations contained in subparagraph (8) of paragraph F of paragraph III of Plaintiffs' Complaint.

D. The Defendant denies the allegations contained in paragraphs E, G and H of paragraph III of Plaintiffs' Complaint.

E. The Defendant denies the allegations contained in subparagraph (7) of paragraph F of paragraph III of Plaintiffs' Complaint.

F. The Defendant denies the allegations contained in paragraph IV of Plaintiffs' Complaint.

G. The Defendant admits those allegations contained in paragraph I of Plaintiffs' Complaint concerning the Defendant and the notice to be given to the Governor of the State of Texas and the Attorney General of the State of Texas, but to the remaining allegations contained in paragraph I of Plaintiffs' Complaint the Defendant is without sufficient knowledge or information to either admit or deny the truth of such allegations, and therefore the same are denied.

H. The Defendant admits the allegations contained in the last sentence of paragraph II of Plaintiffs' Complaint, but the Defendant does not have sufficient knowledge or information to either admit or deny the remaining allegations of paragraph II of Plaintiffs' Complaint, and therefore the same are denied.

I. The Defendant admits the allegations contained in paragraph D of paragraph III of Plaintiffs' Complaint that Section 2 of Article I of the Federal Constitution requires that Congressional districts be as compact, contiguous and as nearly equal in population as is practical, but the Defendant denies the remaining allegations contained in paragraph D of paragraph III of Plaintiffs' Complaint.

J. The Defendant admits the allegations contained in paragraph K of paragraph III of Plaintiffs'

Complaint with the exception of the last sentence thereof, which the Defendant denies.

K. The Defendant denies the allegations contained in paragraphs I and J of paragraph III of Plaintiffs' Complaint.

III.

The Defendant affirmatively alleges that Senate Bill 1, Acts of the 62nd Legislature, 1971, Regular Session, which apportions the State of Texas into Congressional districts complies with the Constitution and laws of the United States and of the State of Texas.

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that the relief sought by the Plaintiffs be in all things denied.

CRAWFORD C. MARTIN
Attorney General of Texas

s / .....

PAT BAILEY
Assistant Attorney General
P. O. Box 12548
Capitol Station
Austin, Texas 78711
Attorneys for Defendant

(Certificate of Service omitted in printing)

(Title omitted in printing.)

PLAINTIFFS' AMENDED COMPLAINT
[Filed, January 10, 1972]

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME DAN WEISER and other individuals named as Plaintiffs above, on behalf of themselves and others similarly situated comprising the class hereinafter defined, and complaining of the Honorable Bob Bullock in his capacity as Secretary of State of the State of Texas, hereinafter called Defendant, would for cause of action respectfully show:

I.

PARTIES—CLASS ACTION

Plaintiffs:

Plaintiff—Residence	Congressional District Per S.B. 1
DAN WEISER 3851 Rugged Circle Dallas, Texas	6th
DONALD COLEMAN 2412 Thirteenth Street Lubbock, Texas	19th
JOHN L. EDWARDS 1930 Dancliff Dallas, Texas	6th
HUGH ELLIOTT 3515 Cranbrook Wichita Falls, Texas	13th

JOHN FLETCHER
2701 22nd, No. 3
Lubbock, Texas — 19th

JOHN R. KARR
520 Prospect
El Paso, Texas — 16th

JOYCE V. KARR
520 Prospect
El Paso, Texas — 16th

BENJAMIN NEWCOMB
3905 B 21st Street
Lubbock, Texas — 19th

NORMA PALMER
206 Mary Drive
Iowa Park, Texas — 13th

MARVIN ZIMET
6200 Pinehurst
El Paso, Texas — 16th

All Plaintiffs are qualified and duly registered to vote in elections for the United States House of Representatives in their respective districts.

Class Action:

Plaintiffs sue on behalf of themselves and all other qualified voters, registered and unregistered, within the several districts wherein the respective Plaintiffs reside as well as all other qualified voters in all other congressional districts in the State of Texas.

That the number of persons comprising the class so

defined is so numerous as to make it impossible to bring them before the Court. That Plaintiffs, as qualified and registered voters, are fairly representative of the class as defined.

That by virtue of the foregoing, this action is properly brought by these Plaintiffs as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

Defendant:

The Defendant Bob Bullock is the duly qualified and acting Secretary of State of the State of Texas. That by the provisions of Article 1.03 of the Texas Election Code (Acts, 60th Leg., Ch. 723, p. 1860 §3, 1967) he is, by virtue of his office, the chief election officer of the State of Texas and is charged with the duty, inter alia, of ". . . obtain[ing] and maintain[ing] uniformity in the application, operation and interpretation of the election laws." Said Defendant may be served at his offices in the State Capitol Building in Austin, Texas.

That pursuant to the provisions of 28 U.S.C. §2284, Notice of hearings in this suit must be given to the Honorable Preston Smith, Governor of the State of Texas at his office or official residence in Austin, Texas, and to the Honorable Crawford Martin, Attorney General of the State of Texas at his office in Austin, Texas.

II.

JURISDICTION

Plaintiffs, on behalf of themselves and others simi-

larly situated, sue to have the Texas Statute establishing congressional districts for the State of Texas (S.B. 1, Acts 62nd Leg., 1971) declared violative of Article I §2 of the U. S. Constitution and of the XIVth Amendment, §§ 1 & 2 to the U. S. Constitution, and to enjoin its enforcement and the conduct of elections thereunder. Thus, this Court has jurisdiction, sitting as a three-judge Court under Title 28 of the U. S. Code, §1343 and §2281.

III.

CAUSE OF ACTION UNDER ARTICLE I §2

A. That under ARTICLE I §2, Cl. 3 of the U. S. Constitution, as a result of the 1970 decennial federal census, the State of Texas was apportioned twenty-four members of the United States House of Representatives.

B. That the 62nd Legislature of the State of Texas enacted S.B. 1 appended hereto as Exhibit A and herewith incorporated by reference for all purposes as though set forth at length herein. That said statute divides the State into twenty-four congressional districts and provides that one member of the House of Representatives shall be elected from each district. Said congressional redistricting plan is hereinafter referred to as "Plan A".

C. That said statute provides that it will become effective for the general election in 1972, and, by implication, for the primary elections to be held by the Democratic and Republican parties of Texas prior thereto pursuant to Article 13.02 of the Texas Election Code (Acts 52nd Leg., Ch. 492, p. 1097, Art. 180, 1951).

D. That Article I, §2 of the U. S. Constitution requires that such congressional districts be as compact, contiguous and as nearly equal in population as is practicable so that the vote cast by each voter will be equal in weight to the vote of every other voter.

E. That the congressional districts established by S.B. 1 are not as compact, contiguous and as nearly equal in population as is practicable; and therefore said statute violates on its face Article I §2 of the U. S. Constitution. Thus, Plaintiffs, and others similarly situated are deprived of their Constitutional right to have their vote count for as much as every other voter.

F. In support of the foregoing, Plaintiffs show:

(1) that the population of the State of Texas, according to the 1970 federal census, was eleven million, one hundred ninety-six thousand, seven hundred and thirty (11,196,730) persons;

(2) that mathematically, each congressional district should contain four hundred sixty-six thousand, five hundred and thirty (466,530) persons;

(3) that the district containing the largest population according to the census is the Thirteenth (13th) District, which contains four hundred seventy-seven thousand, eight hundred and fifty-six (477,856) persons, or eleven thousand, three hundred and twenty-six (11,326) persons more than a numerically equal district;

(4) that the district containing the smallest population according to the census is the Twenty-second

(22nd) District, which contains Four hundred fifty-four thousand, eight hundred twenty (454,820) persons, or eleven thousand, seven hundred ten (11,710) persons less than a numerically equal district;

(5) that expressed in percentages, the population of the Thirteenth (13th) District is 2.4% greater than a numerically equal district; and the population of the Twenty-second (22nd) District is 2.5% less than a numerically equal district;

(6) that the population of the largest district is greater than the smallest district by twenty-three thousand thirty six (23,036) persons; or, expressed in percentages, 4.9% greater;

(7) that the vote of a voter in the Thirteenth (13th) District is worth less than 96% of the vote of a voter in the Twenty-second (22nd) District;

(8) that the population of each district established by S.B. 1, according to the federal decennial census, together with its deviation from the mathematically equal district, expressed numerically and in percentages, is shown by the following table, viz:

	District Population	+Differences (−)	% Difference
1	461,879	−4651	1.00
2	466,836	+306	.01
3	465,221	−1309	.28
4	463,142	−3388	.73
5	465,093	−1437	.31
6	467,913	+1383	.30
7	461,704	−4826	1.03
8	461,216	−5314	1.14

9	467,483	+953	.20
10	465,498	−1037	.22
11	468,148	+1618	.35
12	465,671	−859	.18
13	477,856	+11,326	2.43
14	474,467	+7937	1.70
15	458,581	−7949	1.70
16	477,614	+11,084	2.38
17	467,912	+1382	.30
18	462,062	−4468	.96
19	477,459	+10,929	2.34
20	467,942	+1412	.30
21	466,656	+126	.03
22	454,820	−11,710	−2.51
23	466,248	−282	.06
24	465,314	−1216	.26

G. That the districts created by S.B. 1 were created as a result of political expediency, to perpetuate in office those Representatives whose political philosophy coincided with that of the dominant forces in the State legislature, to create "safe seats" for those of a like mind, to provide a political denouement for past political favors or grievances, to neutralize the votes of ethnic or economic blocs, and with only minimal regard to the constitutional mandate of "one man, one vote."

H. That had the legislature desired to enact a statute consonant with the mandate of Article I §2 of the U. S. Constitution it could have drawn twenty-four districts having almost the same geographic boundaries whereby the population difference between the largest and smallest is only six hundred ninety-six (696) persons, or .1 percent (0.001). Such a plan is annexed hereto as Exhibit B, and herewith incorporated

by reference for all purposes as though set forth at length herein. Said Plan will be referred to as "Plan B".

That said Plan B results from an adjustment of Plan A enacted by the legislature so as to equalize as closely as practicable the population of each district. The said proposed Plan B thus takes into account all the factors other than population relied on by the legislature in the enactment of S.B. 1 (herein referred to as Plan A). However, the primary emphasis of Plan B is on making the districts as numerically equal in population as is practicable rather than emphasizing the non-population factors as was done in Plan A.

I. That the population of each district under Plaintiffs' Plan B, according to the federal decennial census, together with its deviation from the mathematically equal district, expressed numerically, is shown by the following table, viz:

District	Population	Differences (+)(−)
1	466,545	+ 15
2	466,565	+ 35
3	466,266	−264
4	466,234	−296
5	466,620	+ 90
6	466,285	−245
7	466,336	−194
8	466,704	+174
9	466,678	+148
10	466,313	−217
11	466,258	−272
12	466,930	+400
13	466,663	+133
14	466,437	− 93

15	466,359	−171
16	466,663	+133
17	466,432	− 98
18	466,520	− 10
19	466,649	+119
20	466,514	− 16
21	466,753	+223
22	466,707	+177
23	466,424	−106
24	466,875	+345

Percentage deviation is so small as to be of no significance, and is therefore omitted.

J. That had the legislature desired to enact a statute consonant with the mandate of Article I §2 of the U. S. Constitution, that is a plan which made each district as compact and contiguous and as nearly equal in population as each other district as practicable, taking into account solely population and not taking into account "social", "cultural", "economic" or "other factors" including preservation of incumbent congressmen, it could have enacted a plan the same as or substantially similar to that plan set forth in Exhibit C annexed hereto and herewith incorporated by reference as though set forth at length herein. That such plan is hereinafter referred to as "Plan C". That Plan C provides for districts that are significantly more compact and contiguous than those set forth in Plan A. That the population difference between the largest and smallest district proposed under Plan C is 1323 persons which is less than three tenths (3/10) of one per cent (1%) or 0.0028.

K. That the population of each district under Plaintiffs' Plan C, according to the federal decennial census,

together with its deviation from the mathematically equal district, expressed numerically, is shown by the following table, viz:

District	Population	Differences (+ or −)
1	465,986	−544
2	466,817	+287
3	466,835	+305
4	467,108	+578
5	466,258	−272
6	467,023	+493
7	466,336	−194
8	466,704	+174
9	466,678	+148
10	466,303	−227
11	466,569	+ 39
12	466,926	+396
13	467,178	+648
14	466,437	− 93
15	466,359	−171
16	465,941	−589
17	466,340	−190
18	466,520	− 10
19	466,154	−376
20	466,654	+124
21	466,875	+345
22	466,707	+177
23	466,167	−363
24	465,855	−675

Percentage deviation is so small as to be of no significance, and is therefore omitted.

IV.

S.B. 1 DISENFRANCHISES CERTAIN VOTERS

A. That under S.B. 1, the Eighteenth (18th) District purporting to encompass the central portion of Houston, in Harris County, duplicates census tract number 121, containing three thousand, seven hundred nineteen (3,719) persons and wholly omits census tract number 122 containing four thousand, six hundred twenty-seven (4,627) persons. That the effect of such omission is to wholly disenfranchise in congressional elections the otherwise qualified voters residing in said census tract and to understate the population of said district by nine hundred and eight (908) persons. That such error is not made in the plan advocated by Plaintiffs contained in Exhibit B and Exhibit C.

B. That under S.B. 1, the Twenty-Second (22nd) District purporting to encompass the south and southeast portion of Harris County (Houston), duplicates census tract number 334 containing five thousand, five hundred fifty-nine (5,559) persons and wholly omits census tract number 344 containing one thousand, seven hundred and six (1,706) persons. That the effect of such omission is to wholly disenfranchise in congressional elections the otherwise qualified voters residing in said census tract and to overstate the population of said district by three thousand eight hundred and fifty-three (3,853) persons. That such error is not made in the plan advocated by Plaintiffs contained in Exhibit B and Exhibit C.

V.

CAUSE OF ACTION UNDER XIVTH AMENDMENT

Plaintiffs adopt by reference the allegations of Paragraph III hereof.

Plaintiffs further allege:

A. that it constitutes an invidious discrimination in favor of those residents of less populous districts over those residents of more populous districts;

B. that the plan embodied therein is wholly arbitrary and irrational when measured by constitutional requirements or equality.

That for these reasons S.B. 1 denies Plaintiffs and those similarly situated equal protection of the law, which denial is forbidden by §I of the XIVth Amendment to the U. S. Constitution.

VI.

RELIEF

WHEREFORE, Plaintiffs pray:

1. That Defendant be cited to appear and answer herein.

2. That the Court enter an Order pursuant to Rule 23, F.R.C.P. adjudging this suit to be a class action on behalf of all qualified voters in the State of Texas.

3. That a three-judge Court be convened pursuant to 28 U.S.C.A. §2284.

4. That a preliminary injunction issue restraining and enjoining the Defendant from conducting or causing to be conducted any general or primary elections to fill congressional seats based upon the districts established in the said statute.

5. That upon final hearing said statute be adjudged and declared unconstitutional and therefore void.

6. That upon final hearing a permanent injunction issue upon the same terms as the preliminary injunction.

7. That appropriate orders issue upon final hearing directing the legislature of the State of Texas to enact a law creating congressional districts which meet the requirements of the U.S . Constitution.

8. That if the legislature fails to enact a law creating congressional districts which meet the requirements of the U. S. Constitution, either Plan B or Plan C promulgated by Plaintiffs or any variation thereof supported by the evidence and the law be adopted as the judgment of the Court and appropriate orders issued to require that all congressional elections be conducted thereunder until a constitutionally acceptable law is enacted.

9. In the alternative, if the legislature fails to enact a law creating congressional districts which meet the requirements of the U. S. Constitution, that the Court enter appropriate orders to require that all congressional seats apportioned to the State of Texas be filled by at-large elections.

10. That all costs be adjudged against the Defendant; and that the Court retain jurisdiction to render such further orders as may seem appropriate.

Respectfully submitted,

RISCHMAN, ROSENBERG, KASMIR &
PRESTON
601 Kirby Building
1509 Main Street
Dallas, Texas 75201
744-5511

By: s/Lawrence Fischman

By: s/David H. Rosenberg

(Certificate of Service omitted in printing.)

EXHIBIT A

AN ACT

relating to reapportionment of congressional districts; repealing Chapter 342, Acts of the 60th Legislature, Regular Session, 1967 (Article 197c, Vernon's Texas Civil Statutes); and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. The State of Texas is apportioned into Congressional Districts as provided in the following sections. Each district is entitled to elect one Member to the House of Representatives of the Congress of the United States.

Sec. 2. District 1 is composed of Bowie, Camp, Cass, Cherokee, Delta, Fannin, Franklin, Harrison, Henderson, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, San Augustine, Shelby, Titus, Upshur, and Wood Counties.

Sec. 3. District 2 is composed of Anderson, Angelina, Freestone, Grimes, Hardin, Houston, Jasper, Leon, Liberty, Madison, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Jacinto, Trinity, Tyler, and Walker Counties.

Sec. 4. District 3 is composed of that part of Dallas County included in census tracts 192.05, 192.06, 192.07, 192.04, 192.03, 192.02, 192.01, 191, 190.02, 190.03, 185.02, 130.02, 130.01, 78.03, 78.02, 136.02, 136.03, 132, 133, 131, 78.01, 76.04, 77, 136.01, 96.04, 134.02, 76.03, 75.02, 137.04, 137.05, 138.01, 96.03, 96.02, 134.01, 134, 76.01, 76.02,

75.01, 74, 73.01, 73.02, 71.02, 4.03, 95, 94, 98, 97, 96.01, 138.02, 137.01, 137.02, 139, 140.01, 72, 6.01, 4.02, 4.01, 6.02, 5, 19, 100, 99, 137.03, 140.02, 142, 148, 147, 146, 145, 152, 149, 150, 151, 198, 143, 101, 102, 103, 104, 69, 68, 43, 44, 42, 20, 105, 106, 190.04, 195.01, 18, 7.01, and 41.

Sec. 5. District 4 is composed of Collin, Grayson, Hunt, Gregg, Kaufman, Rains, Rockwall, Smith, and Van Zandt Counties, and that part of Dallas County included in census tracts 181.01, 181.02, 181.03, 181.04, and 182.

Sec. 6. District 5 is composed of that part of Dallas County included in census tracts 190.01, 190.06, 190.07, 190.05, 189, 188, 185.01, 186, 187, 183, 184, 126, 127, 128, 129, 180, 125, 124, 82, 179, 123, 122.01, 81, 80, 1, 12, 79.01, 193.01, 193.02, 3, 2.02, 2.01, 10, 11.01, 11.02, 14, 15.01, 13.01, 13.02, 15.02, 22.02, 31.02, 30, 33, 34, 29, 35, 36, 28, 23, 24, 25, 26, 27.01, 27.02, 37, 38, 39.01, 39.02, 40, 83, 84, 85, 91.01, 91.02, 93.01, 93.02, 115, 122.02, 178.02, 90.01, 90.02, 92.01, 121, 120, 119, 176.02, 176.01, 172, 175, 174, 177, 173.02, 173.01, 170, 194, 195.02, 71.01, 197, 196, 7.02, 9, 8, 16, 22.01, 17.01, 21, 31.01, 32.01, 32.02, 118, 92.02, 79.02, and 17.02.

Sec. 7. District 6 is composed of Brazos, Ellis, Hill, Johnson, Limestone, Navarro, and Robertson Counties; that part of Dallas County included in census tracts 164, 165.01, 165.02, 165.03, 165.04, 165.05, 166.04, 166.03, 166.02, 166.01, 109, 108, 61, 110, 111.01, 111.02, 112, 113, 167.01, 167.02, 168, 169.04, 169.01, 169.02, 169.03, 171, 116, and 117; and that part of Tarrant County included in census tracts 108.03, 109, 54.01, 55.01, 54.02, 42.01, 43, 42.02, 48.01, 47, 56, 48.02, 55.02, 57.01, 58, 59, 60.02, 60.01, 110.02, 57.02, 55.03, 55.04, and 110.01.

Sec. 8. District 7 is composed of that part of Harris County included in census tracts 558, 557, 554, 553, 552, 556, 555, 551, 545, 550, 549, 548, 547, 546, 544, 537, 538, 541, 540, 452, 451, 543, 542, 529, 528, 527, 526, 519, 517, 443, 442, 441, 444, 447, 448, 450, 449, 446, 445, 440, 406, 420, 422, 439, 438, 437, 436, 423, 419, 424, 435, 407, 409, 408, 411, 418, 417, 416, 425, 426, 434, 429, 428, 427, 433, 430, 431, 432, 410, and 413, and that part of census tract 405 included in census block group 5.

Sec. 9. District 8 is composed of that part of Harris County included in census tracts 559, 244, 245, 243, 242, 536, 535, 241, 533, 240, 223, 531, 532, 222, 221, 224, 525, 524, 523, 522, 220, 218, 225, 217, 216, 215, 227, 208, 229, 228, 230, 214, 203, 209, 213, 231, 212, 202, 210, 211, 232, 233, 321, 320, 322, 350, 351, 352, 354, 234, 262, 261, 267, 268, 263, 265, 266, 270, 269, 271, 264, 361, 362, 273, 274, 272, 275, 364, 360, 363, 365, 530, 539, and 534.

Sec. 10. District 9 is composed of Chambers, Galveston, and Jefferson Counties and that part of Harris County included in census tracts 250, 249, 247, 238, 251, 248, 246, 252, 253, 237, 236, 254, 256, 255, 257, 258, 235, 259, 260, 226, and 239.

Sec. 11. District 10 is composed of Austin, Bastrop, Blanco, Burleson, Caldwell, Colorado, Fayette, Hays, Lee, Travis, Waller, and Washington Counties.

Sec. 12. District 11 is composed of Bell, Bosque, Burnet, Coryell, Falls, Hamilton, Hood, Lampasas, McLennan, Milam, Mills, Parker, Somervell, and Williamson Counties.

Sec. 13. District 12 is composed of that part of Tar

rant County not included in district 6 or 24.

Sec. 14. District 13 is composed of Archer, Armstrong, Baylor, Briscoe, Carson, Childress, Clay, Collingsworth, Cottle, Dallam, Dickens, Donley, Foard, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, King, Knox, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, and Wilbarger Counties.

Sec. 15. District 14 is composed of Aransas, Calhoun, Jackson, Matagorda, Nueces, Refugio, San Patricio, Victoria, and Wharton Counties, and that part of Brazoria County included in enumeration districts 108, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 153B, 158, 159, 160, and 160B.

Sec. 16. District 15 is composed of Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Starr, Willacy, and Zapata Counties.

Sec. 17. District 16 is composed of Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Presidio, Reeves, Ward, and Winkler Counties, and that part of Ector County not included in district 19.

Sec. 18. District 17 is composed of Borden, Brown, Callahan, Coleman, Comanche, Cooke, Crosby, Eastland, Erath, Fisher, Floyd, Garza, Haskell, Howard, Jack, Jones, Kent, McCulloch, Mitchell, Montague, Nolan, Palo Pinto, San Saba, Scurry, Shackelford, Stephens, Stonewall, Taylor, Throckmorton, Wise, and Young Counties.

Sec. 19. District 18 is composed of that part of Harris County included in census tracts 219, 521, 520, 510, 518, 509, 207, 511, 513, 512, 507, 508, 206, 204, 205, 503, 506, 516, 514, 515, 505, 504, 502, 501, 201, 121, 401, 126, 122, 123, 402, 125, 403, 404, 124, 303, 302, 301, 311, 310, 312, 309, 313, 304, 306, 305, 316, 307, 308, 314, 315, 317, 330, 318, 328, and that part of census tract 405 not included in census block group 5.

Sec. 20. District 19 is composed of Andrews, Bailey, Castro, Cochran, Dawson, Deaf Smith, Gaines, Hale, Hockley, Lamb, Lubbock, Lynn, Martin, Midland, Parmer, Terry, and Yoakum Counties, and that part of Ector County included in census tracts 3, 4, 5, 6, 7, 24, and 25, and that part of census tract 21 East of U. S. Highway 385 and North of the Texas and Pacific Railroad.

Sec. 21. District 20 is composed of that part of Bexar County not included in district 21 or 23.

Sec. 22. District 21 is composed of Bandera, Coke, Comal, Concho, Crane, Crockett, Edwards, Gillespie, Glasscock, Irion, Kendall, Kerr, Kimble, Kinney, Llano, Mason, Menard, Pecos, Reagan, Real, Runnels, Schleicher, Sterling, Sutton, Terrell, Tom Green, Upton, Uvalde, and Val Verde Counties, and that part of Bexar County included in census tracts 1719, 1720, 1816, 1817, 1806, 1807, 1815, 1821, 1820, 1819, 1915, 1916, 1914, 1818, 1814, 1809, 1810, 1811, 1813, 1812, 1911, 1912, 1909, 1913, 1207, 1210, 1209, 1208, 1206, 1203, 1204, 1803, 1808, 1802, 1908, 1718, 1717, 1714, 1805, 1917, 1211, 1212, 1213, 1617, 1219, 1218, and 1215.

Sec. 23. District 22 is composed of Fort Bend County; that part of Brazoria County not included in dis-

trict 14; and that part of Harris County included in census tracts 412, 414, 415, 331, 329, 332, 333, 334, 339, 340, 335, 338, 336, 337, 341, 343, 342, 319, 325, 326, 324, 344, 353, 355, 356, 349, 357, 358, 366, 348, 359, 347, 346, 345, 370, 367, 369, 368, 373, 374, 371, 372, 375, 327, and 323.

Sec. 24. District 23 is composed of Atascosa, Bee, DeWitt, Dimmit, Frio, Goliad, Gonzales, Guadalupe, Karnes, LaSalle, Lavaca, Maverick, Medina, Webb, Wilson, and Zavala Counties, and that part of Bexar County included in census tracts 1619, 1620, 1612, 1613, 1610, 1611, 1512, 1520, 1521, 1513, 1511, 1514, 1516, 1518, 1519, 1522, 1416, 1415, 1418, 1417, 1414, 1413, 1419, 1312, 1313, 1314, 1310, 1309, 1315, 1205, 1214, 1217, 1216, 1317, 1316, 1318, 1517, 1615, and 1618.

Sec. 25. District 24 is composed of Denton County; that part of Dallas County included in census tracts 15301, 153.02, 144, 141.04, 141.02, 154, 161, 141.01, 155, 160, 162, 156, 157, 159, 163, 158, 107, 67, 199, 65, 64, 45, 53, 52, 46, 47, 51, 50, 63.02, 62, 48, 54, 56, 49, 89, 55, 88, 86, 114.02, 87.01, 87.02, 57, 59.01, 59.02, 60.01, 63.01, 114.01, and 60.02, and that part of Tarrant County included in census tracts 65.05, 131, 130, 218, 217.02, 217.01, 216.02, 216.01, 65.04, 65.01, 14.01, 65.02, 65.03, 14.03, 13, 216.03, 115.01, 115.02, 222, 223, 225, 224, 221, 220, 219, 229, 228, 227, 226, 115.03, 115.04, 114, 111.02, 60.03, 112.02, 112.01, and 113.

Sec. 26. The terms "census tract" and "census enumeration district," as used in this Act, mean those geographic areas outlined and identified as such on official place, county, and metropolitan map series maps prepared by the United States Department of Commerce Bureau of the Census for the Nineteenth Dec-

ennial Census of the United States, enumerated as of April 1, 1970. "Block groups" are subdivisions of census tracts as defined on census metropolitan maps which differentiate block groups by the first digit of the block numbers assigned to city blocks within each tract.

Sec. 27. The Texas Legislative Council shall furnish to the Commissioners Court of each County which is divided into two or more districts appropriate maps showing census tract, census enumeration district, or census block group lines to facilitate the identification of district lines.

Sec. 28. Chapter 342, Acts of the 60th Legislature, Regular Session, 1967 (Article 197c, Vernon's Texas Civil Statutes), is repealed.

Sec. 29. Nothing in this Act affects the tenure in office of the present delegation in Congress, but this Act takes effect for the general election in 1972.

Sec. 30. The importance of this legislation and the crowded condition of the calendars in both Houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended.

Speaker of the House	Lieutenant Governor

I hereby certify that S. B. No. 1 passed the Senate on June 1, 1971, by a viva voce vote; June 2, 1971, Senate refused to concur in House amendments and requested appointment of Conference Committee; June 2, 1971, House granted request of the Senate; June 4,

1971, Senate adopted Conference Report by the following vote: Yeas 17, Nays 9, and one paired vote.

_____

Secretary of the Senate

I hereby certify that S. B. No. 1 passed the House on June 2, 1971, with amendments, by the following vote: Yeas 66, Nays 49; June 2, 1971, House granted request of the Senate for appointment of Conference Committee; June 4, 1971, House adopted Conference report by the following vote: Yeas 80, Nays 53, and one present not voting.

_____

Chief Clerk of the House

Approved:

_____

Date

_____

Governor

EXHIBIT B

PROPOSED CONGRESSIONAL DISTRICTS

DISTRICT 1 is composed of Bowie, Camp, Cass, Cherokeet, Delta, Fannin, Franklin, Harrison, Henderson, Hopkins, Lamar, Marion, Morris, Panola, Red River Rusk, San Augustine, Shelby, Titus, Upshur, and Wood Counties; that part of Hunt County included in the Lone Oak census county division; and that part of Rains County included in the Emory census county division.

DISTRICT 2 is composed of Anderson, Angelina, Grimes, Hardin, Houston, Jasper, Leon, Liberty, Madison, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Jacinto, Trinity, Tyler and Walker Counties, and all of Freestone County not included in the Streetman Town part of the Wortham census county division.

DISTRICT 3 is composed of that part of Collin County included in the Nevada, Plano, and Wylie census county divisions; that part of Denton County included in the Lewisville census county division; and that part of Dallas County included in census tracts 1, 2.01, 2.02, 3, 6.01, 7.02, 9, 11.01, 11.02, 71.01, 72, 73.01, 73.02, 74, 75.01, 75.02, 76.01, 76.02, 76.03, 76.04, 77, 78.01, 78.02, 78.03, 79.01, 79.02, 80, 81, 82, 94, 95, 96.01, 96.02, 96.03, 96.04, 97, 98, 99, 128, 129, 130.01, 130.02, 131, 132, 133, 134.01, 134.02, 135, 136.01, 136.02, 136.03, 137.01, 137.02, 137.03, 137.04, 137.05, 138.01, 138.02, 139, 140.01, 140.02, 141.01, 141.02, 141.03, 142, 143, 146, 147, 185.02, 190.02, 190.04, 190.06, 191, 192.01, 192.02, 192.03, 192.04, 192.05, 192.06, 192.07, 193.01, 193.02, 194, 195.01,

195.02, 196, 197, and 198.

DISTRICT 4 is composed of Grayson, Gregg, Kaufman, Rockwall, Smith and Van Zandt Counties; that part of Collin County not included in District 3; that part of Cooke County included in the Gainesville North Callisburg census county division; that part of Denton County not include in District 3; that part of Hunt County not included in District 1; and that part of Rains County not included in District 1.

DISTRICT 5 is composed of that part of Dallas County not included in District 3 or 6 or 24.

DISTRICT 6 is composed of Brazos, Ellis, Hill, Johnson, Limestone, Navarro and Robertson Counties; that part of Freestone County not included in District 2; that part of Parker County included in the Weatherford Southeast and the Weatherford Southwest census county divisions; that part of Dallas County included in census tracts 60.01, 60.02, 61, 63.01, 108, 109, 110, 111.01, 111.02, 164, 165.01, 165.02, 165.03, 165.04, 165.05, 166.01, 166.02, 166.03, 166.04, 167.02, 168, 169.01, 169.02, 169.03 and 169.04; and that part of Tarrant County included in census tracts 60.03, 111.02, 112.01, 112.02, 108.03, 109, 54.01, 55.01, 54.02, 42.01, 43, 42.02, 48.01, 47, 56, 48.02, 55.02, 57.01, 58, 59, 60.02, 60.01, 110.02, 57.02, 55.03, 55.04 and 110.01.

DISTRICT 7 is composed of that part of Harris County included in census tracts 558, 557, 554, 553, 552, 556, 555, 551, 545, 550, 549, 548, 547, 546, 544, 537, 538, 541, 540, 452, 451, 543, 542, 529, 528, 527, 526, 519, 517, 443, 442, 441, 444, 447, 448, 450, 449, 446, 445, 440, 421, 406, 420, 422, 439, 438, 437, 436, 423, 419, 424, 435, 407, 409, 408, 411, 418, 417, 416,

425, 426, 434, 429, 428, 427, 433, 431, 432, 333, 413, 334, 536, and 430; and that part of census tract 405 included in census block group 5.

DISTRICT 8 is composed of that part of Harris County included in census tracts 559, 244, 245, 243, 242, 535, 241, 533, 240, 223, 531, 532, 222, 224, 525, 524, 523, 522, 220, 218, 225, 217, 216, 215, 227, 521, 229, 228, 230, 214, 203, 209, 213, 231, 212, 202, 210, 211, 232, 233, 321, 320, 322, 350, 351, 352, 354, 234, 262, 261, 267, 268, 263, 265, 266, 270, 269, 271, 264, 361, 362, 273, 274, 272, 275, 364, 360, 363, 365, 530, 539, 534, 254 and 353.

DISTRICT 9 is composed of Chambers, Galveston and Jefferson Counties and that part of Harris County included in census tracts 250, 249, 247, 238, 251, 248, 246, 252, 253, 237, 236, 256, 255, 257, 258, 235, 259, 260, 226 and 239.

DISTRICT 10 is composed of Austin, Bastrop, Blanco, Burleson, Fayette, Hays, Lee, Travis and Washington Counties; that part of Caldwell County included in the Martindale census county division; that part of Colorado County not included in the Garwood census county division; that part of Gonzales County included in the Waelder census county division; that part of Lavaca County included in the Moulton and Shiner census county divisions; that part of Waller County not included in the Brookshire census county division; and that part of Williamson County included in the Florence, Georgetown, Jarrell and Liberty Hill census county divisions.

DISTRICT 11 is composed of Bell, Bosque, Brown, Burnet, Coryell, Falls, Hamilton, Hood, Lampasas,

McCulloch, McLennan, Milam, Mills, San Saba, and Somervell Counties; that part of Coleman County not included in the Coleman census county division; that part of Comanche County included in the Gustine census county division; that part of Erath County included in the Stephenville South census county division; and that part of Williamson County not included in District 10.

DISTRICT 12 is composed of that part of Tarrant County not included in District 6 or 24.

DISTRICT 13 is composed of Archer, Armstrong, Briscoe, Carson, Childress, Clay, Collingsworth, Cottle, Dallam, Dickens, Donley, Foard, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, King, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita and Wilbarger Counties.

DISTRICT 14 is composed of Aransas, Calhoun, Jackson, Matagorda, Nueces, Refugio, San Patricio, Victoria and Wharton Counties; that part of Colorado County not included in District 10; and that part of Lavaca County not included in District 10.

DISTRICT 15 is composed of Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Starr, Willacy, and Zapata Counties; that part of Bee County included in the Pettus-Pawnee census county division; and that part of Karnes County included in the Kenedy census county division.

DISTRICT 16 is composed of Culberson El Paso, Hudspeth, Loving, Presidio, Ward and Winkler Coun-

ties; that part of Jeff Davis County including the Valentine census county division; that part of Reeves County included in the Pecos census county division; and that part of Ector County not included in District 19.

DISTRICT 17 is composed of Baylor, Borden Callahan, Crosby, Eastland, Fisher, Floyd, Garza, Haskell, Howard, Jack, Jones, Kent, Knox, Lynn, Mitchell, Montague, Nolan, Palo Pinto, Scurry, Shackelford, Stephens, Stonewall, Taylor, Throckmorton, Wise and Young Counties; that part of Coleman County not included in District 11; that part of Comanche County not included in District 11; that part of Cooke County not included in District 4; that part of Dawson County included in the Lamesa Southeast census county division; that part of Erath County not included in District 11; and that part of Parker County not included in District 6.

DISTRICT 18 is composed of that part of Harris County not include in District 7 or 8 or 9 or 22.

DISTRICT 19 is composed of Andrews, Bailey, Castro, Cochran, Deaf Smith, Gaines, Hale, Hockley, Lamb, Lubbock, Martin, Midland, Parmer, Terry and Yoakum Counties; that part of Dawson County not included in District 17; and that part of Ector County included in census tracts 1, 2, 3, 5, 6, 7, 8, 9, 21, 24 and 25.

DISTRICT 20 is composed of that part of Bexar County not included in District 21 or 23.

DISTRICT 21 is composed of Bandera, Brewster, Coke, Comal, Concho, Crane, Crockett, Edwards, Gil-

lespie, Glasscock, Irion, Kendall, Kerr, Kimble, Llano, Mason, Menard, Pecos, Reagan, Real, Runnels, Schleicher, Sterling, Sutton, Terrell, Tom Green, Upton, and Val Verde Counties; that part of Jeff Davis County not included in District 16; that part of Medina County in the D'Harris and Hondo census county divisions; that part of Reeves County not included in District 16; and that part of Bexar County included in census tracts 1719, 1720, 1816, 1817, 1806, 1807, 1815, 1821, 1820, 1819, 1915, 1916, 1914, 1818, 1814, 1809, 1810, 1811, 1813, 1812, 1911, 1912, 1909, 1913, 1207, 1210, 1209, 1208, 1206, 1203, 1204, 1803, 1808, 1802, 1908, 1718, 1717, 1714, 1805, 1917, 1211, 1212, 1213, 1617, 1219, 1218, and 1215.

DISTRICT 22 is composed of Brazoria and Fort Bend Counties; that part of Waller County not included in District 10; and that part of Harris County included in census tracts 412, 414, 415, 331, 332, 329, 366, 339, 340, 335, 338, 336, 337, 341, 343, 342, 319, 325, 326, 324, 410, 355, 356, 349, 357, 358, 348, 359, 347, 346, 345, 370, 367, 369, 368, 373, 374, 371, 372, 375, 327, 323, and 344.

DISTRICT 23 is composed of Atascosa, DeWitt, Dimmit, Frio, Goliad, Guadalupe, Kinney, LaSalle, Maverick, Uvalde, Webb, Wilson and Zavala Counties; that part of Bee County not in District 15; that part of Caldwell County not in District 10; that part of Gonzales County not in District 10; that part of Karnes County not in District 15; that part of Medina County not in District 21; and that part of Bexar County included in census tracts 1619, 1620, 1612, 1613, 1610, 1611, 1512, 1520, 1521, 1513, 1511, 1514, 1516, 1518, 1519, 1522, 1416, 1415, 1418, 1417, 1414, 1413, 1419, 1312, 1313, 1314, 1310, 1309, 1315, 1205,

1214, 1217, 1216, 1317, 1316, 1318, 1517, 1615, 1618 and 1508.

DISTRICT 24 is composed of that part of Dallas County included in census tracts 20, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59.01, 59.02, 62, 63.02, 64, 65, 67, 68, 69, 86, 87.01, 87.02, 88, 89, 101, 102, 103, 104, 105, 106, 107, 112, 113, 114.01, 114.02, 141.04, 144, 145, 151, 152, 153.01, 153.02, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 167.01 and 199; and that part of Tarrant County included in census tracts 135.01, 64, 65.05, 131, 130, 218, 217.02, 217.01, 216.02, 216.01, 65.04, 65.02, 65.03, 13, 216.03, 115.01, 115.02, 222, 223, 224, 224, 221, 220, 219, 229, 228, 227, 226, 115.03, 115.04, 114 and 113.

The terms "census tract" and "census county division" mean those geographic areas outlined and identified as such on official place, county, and metropolitan map series maps prepared by the United States Department of Commerce Bureau of the Census for the Nineteenth Decennial Census of the United States, enumerated as of April 1, 1970. The population figures for counties and census county divisions are those published January, 1971, in the United States Department of Commerce publication PC (VI)—45 Texas, 1970 Census of Population, advance report, Final Population Counts. "Block groups" are subdivisions of census tracts as defined on census metropolitan maps which differentiate block groups by the first digit of the block numbers assigned to city blocks within each tract.

EXHIBIT C

PROPOSED CONGRESSIONAL DISTRICTS

DISTRICT 1 is composed of Bowie, Camp, Cass, Delta, Fannin, Franklin, Grayson, Harrison, Hopkins, Lamar, Marion, Morris, Rains, Red River, Rockwall, Titus, Upshur and Wood Counties; and all of Hunt County not included in the Celeste census county division.

DISTRICT 2 is composed of Angelina, Brazos, Grimes, Hardin, Houston, Jasper, Liberty, Madison, Montgomery, Newton, Orange, Polk, Robertson, Sabine, San Augustine, San Jacinot, Trinity, Tyler, and Walker Counties; and that part of Leon County included in the Centerville and Oakwood census county divisions.

DISTRICT 3 is composed of that part of the city of Richardson in the Plano census county division of Collin County, and that part of Dallas County included in census tracts 1, 2.01, 2.02, 3, 6.01, 6.02, 7.02, 9, 10, 11.01, 11.02, 12, 14, 71.01, 72, 73.01, 73.02, 74, 75.01, 75.02, 76.01, 76.02, 76.03, 76.04, 77, 78.01, 78.02, 78.03, 79.01, 79.02, 80, 81, 82, 94, 95, 96.01, 96.02, 96.03, 96.04, 97, 98, 99, 128, 129, 130.01, 130.02, 131, 132, 133, 134.01, 134.02, 135, 136.01, 136.02, 136.03, 137.01, 137.02, 137.03, 137.04, 137.05, 138.01, 138.02, 139, 140.01, 140.02, 141.01, 141.02, 141.03, 141.04, 143, 144, 145, 146, 147, 185.02, 190.02, 190.03, 190.04, 191, 192.01, 192.02, 192.03, 192.04, 192.05, 192.06, 192.07, 193.01, 193.02 194, 195.01, 195.02, 196, 197 and 198.

DISTRICT 4 is composed of Anderson, Cherokee,

Freestone, Gregg, Henderson, Kaufman, Nacogdoches, Navarro, Panola, Rusk, Shelby, Smith and Van Zandt Counties; and that part of Leon County not included in District 2.

DISTRICT 5 is composed of that part of Dallas County not included in District 3 or 24.

DISTRICT 6 is composed of Hood and Johnson Counties; and that part of Tarrant County included in census tracts 13, 14.01, 14.03, 16, 19, 23.01, 24.01, 24.02, 25, 26, 28, 29, 30, 31, 32, 33, 34, 36.01, 36.02, 37.01, 37.02, 38, 39, 40, 41, 42.01, 42.02, 43, 44, 45.01, 45.02, 45.03, 46.01, 46.02, 46.03, 46.04, 46.05, 47, 48.01, 48.02, 51, 52, 53, 54.01, 54.02, 55.01, 55.02, 55.03, 55.04, 56, 57.01, 57.02, 58, 59, 60.01, 60.02, 60.03, 61.01, 61.02, 62, 63, 64, 65.01, 65.02, 65.03, 65.04, 65.05, 108.01, 108.02, 108.03, 109, 110.01, 110.02, 111.01, 111.02, 112.01, 112.02, 113, 114, 115.01, 115.02, 115.03, 115.04, 130, 131, 216.01, 216.02, 216.03, 217.01, 217.02, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228 and 229.

DISTRICT 7 is composed of that part of Harris County included in census tracts 558, 557, 554, 553, 552, 556, 555, 551, 545, 550, 549, 548, 547, 546, 544, 537, 538, 541, 540, 452, 451, 543, 542, 529, 528, 527, 526, 519, 517, 443, 442, 441, 444, 447, 448, 450, 449, 446, 445, 440, 421, 406, 420, 422, 439, 438, 437, 436, 423, 419, 424, 435, 407, 409, 408, 411, 418, 417, 416, 425, 426, 434, 429, 428, 427, 433, 431, 432, 333, 413, 334, 536, and 430; and that part of census tract 405 included in census block group 5.

DISTRICT 8 is composed of that part of Harris County included in census tracts 559, 244, 245, 243,

242, 535, 241, 533, 240, 223, 531, 532, 222, 221, 224, 525, 524, 523, 522, 220, 218, 225, 217, 216, 215, 227, 521, 229, 228, 230, 214, 203, 209, 213, 231, 212, 202, 210, 211, 232, 233, 231, 320, 322, 350, 351, 352, 354, 234, 262, 261, 267, 268, 263, 265, 266, 270, 269, 271, 264, 361, 362, 273, 274, 272, 275, 364, 360, 363, 365, 530, 539, 534, 254 and 353.

DISTRICT 9 is composed of Chambers, Galveston and Jefferson Counties and that part of Harris County included in census tracts 250, 249, 247, 238, 251, 248, 246, 252, 253, 237, 236, 256, 255, 257, 257, 235, 259, 260, 226 and 239.

DISTRICT 10 is composed of Austin, Bastrop, Blanco, Caldwell, Fayette, Hays, Travis, and Washington Counties; that part of Guadalupe County included in the Seguin East, Seguin North, and Seguin Southwest census county divisions; that part of Lavaca County included in the Moulton and Shiner census county divisions; all of Waller County not included in the Brookshire census county division; all of Colorado County not included in the Garwood census county division; and all of Gonzales not included in the Nixon census county division.

DISTRICT 11 is composed of Bell, Bosque, Burleson, Burnett, Coryell, Falls, Hamilton, Lampasas, Lee, Limestone, McLennan, Milam, Mills, Somervell and Wiliamson Counties; that part of Brown County included in the Brookesmith census county division; and that part of San Saba County included in the San Saba North census county division.

DISTRICT 12 is composed of Cooke and Denton Counties; that part of Collin County not included in

District 3, that part of Tarrant County not included in District 6, and that part of Hunt County not included in District 1.

DISTRICT 13 is composed of Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Collingworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Kent, King, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Stonewall, Swisher and Wheeler Counties; that part of Knox County not included in District 17, that part of Haskell County not included in District 17, and that part of Hockley County not included in District 19.

DISTRICT 14 is composed of Aransas, Calhoun, Jackson, Matagorda, Nueces, Refugia, San Patricio, Victoria and Wharton Counties; that part of Colorado County not included in District 10; and that part of Lavaca County not included in District 10.

DISTRICT 15 is composed of Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Starr, Willacy, and Zapata Counties; that part of Bee County included in the Pettus-Pawnee census county division; and that part of Karnes County included in the Kenedy census county division.

DISTRICT 16 is composed of Brewster, Crane, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Val Verde, Ward, and Winkler Counties.

DISTRICT 17 is composed of Archer, Baylor, Cal-

lahan, Clay, Comanche, Eastland, Erath, Jack, Jones, Montague, Palo Pinto, Parker, Sheckelford, Stephens, Taylor, Throckmorton, Wichita, Wilbarger, Wise and Young Counties; that part of Haskell County included in the Hasket and Weinert census county divisions, and that part of Knox County included in the Goree census county division.

DISTRICT 18 is composed of that part of Harris County not included in District 7 or 8 or 9 or 22.

DISTRICT 19 is composed of Andrews, Borden, Cochran, Dawson, Ector, Gaines, Garza, Howard, Lubbock, Lynn, Martin, Midland, Terry, Upton and Yoakum Counties; and that part of Hockley County included in the Ropesville census county division.

DISTRICT 20 is composed of that part of Bexar County included in census tracts 1106, 1107, 1203, 1204, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1218, 1219, 1601, 1604, 1605, 1606, 1607, 1614, 1615, 1616, 1617, 1618, 1619, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713, 1714, 1715, 1716, 1717, 1718, 1719, 1720, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1901, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916 and 1917.

DISTRICT 21 is composed of Bandera, Coke, Coleman, Comal, Concho, Crockett, Dimmit, Edwards, Fisher, Frio, Gillespie, Glasscock, Irion, Kendall, Kerr, Kimble, Kinney, LaSalle, Llano, Mason, Maverick, McCulloch, Medina, Menard, Mitchell, Nolan, Reagan, Real, Runnels, Schleicher, Scurry, Sterling, Sutton, Tom Green, Uvalde, Webb and Zavala Counties; that

part of Brown County not include in District 11, that part of San Saba County not included in District 11 and that part of Atacosa County not included in District 23.

DISTRICT 22 is composed of Brazoria and Fort Bend Counties; that part of Waller County not included in District 10; and that part of Harris County included in census tracts 412, 414, 415, 331, 332, 329, 366, 339, 340, 335, 338, 336, 337, 341, 343, 342, 319, 325, 326, 324, 410, 355, 356, 349, 357, 358, 348, 359, 347, 346, 345, 370, 367, 369, 368, 373, 374, 371, 372, 375, 327, 323 and 344.

DISTRICT 23 is composed of Dewitt, Goliad and Wilson Counties; that part of Bee County not included in District 15; that part of Karnes County not included in District 15; that part of Guadalupe County not included in District 10; that part of Atacosa County included in the Poteet census county division; that part of Gonzales County not included in District 10; and that part of Bexar County not included in District 20.

DISTRICT 24 is composed of Ellis and Hill Counties and that part of Dallas County included in census tracts 4.01, 4.02, 4.03, 5, 7.01, 20, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 56, 57, 59.01, 59.02, 60.01, 60.02, 61, 62, 63.01, 63.02, 64, 65, 67, 68, 69, 71.02, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111.01, 111.02, 112, 113, 148, 149, 150, 151, 152, 153.01, 153.02, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165.01, 165.02, 165.03, 165.04, 165.05, 166.01, 166.02, 166.03, 166.04, 167.01, 168, 169.01, 169.02, 169.03, 169.04 and 199.

(Title Omitted in printing)

STIPULATIONS

[Filed, January 19, 1972]

It is agreed and stipulated by and between the counsel for Plaintiffs and counsel for Defendant as follows:

1. That if CLYDE HAYNES were present in court and under oath, he would and could testify that he is and was during the regular and special sessions of the 62nd Legislature of the State of Texas a resident of Vidor in Orange County, Texas and was the duly elected representative for House District #8.

2. That if CHARLES WILSON were present in court and under oath, he would and could testify that he is and was during the regular and special sessions of the 62nd Legislature of the State of Texas a resident of Lufkin in Angelina County, Texas and was the duly elected representative for Senatorial District #3.

3. That these stipulations may be offered in evidence for all purposes upon the trial hereof.

IT IS SO AGREED and STIPULATED this 19th day of January, 1972.

Respectfully submitted,
FISCHMAN, ROSENBERG, KASMIR & PRESTON

By _____
Lawrence Fischman

601 Kirby Building
1509 Main Street
Dallas, Texas 75201 744-5511
Attorneys for Plaintiffs
CRAWFORD MARTIN,
Attorney General

By _____
James Quick
Attorneys for Defendant

(Title Omitted in printing)

MOTION TO INTERVENE AS PLAINTIFF

[Filed, January 20, 1972]

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now VAN HENRY ARCHER, JR., individually and as Chairman of the Bexar County Republican Party, M. O. TURNER, MRS. LOIS WHITE, RICHARDSON B. GILL, MRS. MARY LOUISE PINO and MRS. MARY MARTIN JACKSON, hereinafter styled Plaintiff-Interveners, on behalf of themselves and others similarly situated, comprising the class, and move for leave to intervene as a Plaintiff as provided for in Rule 24 (a.) and (b.) of the Federal Rules of Civil Procedure, in order to assert the claim set forth in their proposed complaint, of which a copy is hereto attached, on the grounds that the representation of the Applicants' interests by existing parties is, or may be, inadequate and the Aplicant is, or may be, bound by a judgment in the action.

NATHAN W. EASON

J. DOUGLAS MCGUIRE
400 Alamo National Building
San Antonio, Texas 78205
Attorneys for
Van Henry Archer, Jr.,
individually and as Chairman
of the Bexar County Republican
Party, et al
Applicants for Intervention

(Title Omitted in printing)

COMPLAINT IN INTERVENTION

[Filed, January 22, 1972]

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes VAN HENRY ARCHER, JR., individually and as Chairman of the Bexar County Republican Party, M. O. TURNER, MRS. LOIS WHITE, RICHARDSON B. GILL, MRS. MARY LOUISE PINO and MRS. MARY MARTIN JACKSON, hereinafter styled Plaintiff-Interveners, on behalf of themselves and others similarly situated, comprising the class hereinafter defined, and complaining of the HONORABLE BOB BULLOCK, in his capacity as Secretary of State of the State of Texas, hereinafter called Defendant, would, for cause of action, respectfully show:

I.

PLAINTIFF-INTERVENERS

(1.) Plaintiff-Intervener, VAN HENRY ARCHER, JR., is a resident of the State of Texas and resides in the County of Bexar in said state at 218 West Lynwood Avenue, San Antonio, Texas, and is a duly registered and qualified voter in said county and state. The aforesaid Plaintiff-Intervener is the duly elected Chairman of the Bexar County Republican Party, a political party existing under and by virtue of the laws of the State of Texas.

(2.) The Plaintiff-Intervener, M. O. TURNER, is a resident of the State of Texas and resides in the

County of Bexar in said state, with address at 109 Laburnum, San Antonio, Texas, and is a duly registered and qualified voter.

(3.) The Plaintiff-Intervener, MRS. LOIS WHITE, is a resident of the State of Texas and resides in the County of Bexar in said state, with address at 1302 Dawson Street, San Antonio, Texas, in said county, and is a duly registered and qualified voter.

(4.) The Plaintiff-Intervener, RICHARDSON B. GILL, is a resident of the State of Texas and resides in the County of Bexar in said state, with address at 309 Encino, San Antonio, Texas, in said county, and is a duly registered and qualified voter.

(5.) The Plaintiff-Intervener, MRS. MARY LOUISE PINO, is a resident of the State of Texas and resides in the County of Bexar in said state, with address at 400 South Mesquite, San Antonio, Texas, in said county, and is a duly registered and qualified voter.

(6.) The Plaintiff-Intervener, MRS. MARY MORTON JACKSON, is a resident of the State of Texas and resides in the County of Bexar in said state, with address at 311 South St. Mary's Street, San Antonio, Texas, in said county, and is a duly registered and qualified voter.

II.

CLASS ACTION

Plaintiff-Interveners brings this action on their own behalf, and pursuant to Rule 23 of the Federal Rules

of Civil Procedure, on behalf of all other persons similarly situated. The members of the class similarly situated are all those individuals who are duly qualified and registered voters of the State of Texas who reside in Bexar County, and are qualified and duly registered to vote in United States Congressional Districts 20, 21 & 23 in elections for the United States House of Representatives in said districts. The requirements of Rule 23 are met in that the class is so numerous that joinder of all members is impractical; there are questions of law or fact common to the class; the claims of the representative party are typical of the claims of the class; the representative parties will fairly and adequately protect the interest of the class; and the parties opposing the class have acted on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

The Defendant, BOB BULLOCK, is the duly qualified and acting Secretary of State of the State of Texas. That by the provisions of Article 1.03 of the Texas Election Code (Acts. 60th Leg., Ch. 723, p. 1860 §3, 1967) he is, by virtue of his office, the chief election officer of the State of Texas and is charged with the duly, inter alia, of ". . . obtain(ing) and maintain(ing) uniformity in the application, operation and interpretation of the election laws." Said Defendant may be served at his offices in the State Capitol Building in Austin, Texas.

That pursuant to the provisions of 28 U.S.C. §2284, Notice of hearings in this suit must be given to the HONORABLE PRESTON SMITH, Governor of the State of Texas, at his office or official residence in Austin, Texas, and to the HONORABLE CRAWFORD

MARTIN, Attorney General of the State of Texas, at his office in Austin, Texas.

III.

JURISDICTION

Plaintiff-Interveners, on behalf of themselves and others similarly situated, sue to have the Texas statute establishing congressional districts for the State of Texas (S.B. 1, Acts 62nd Leg., 1971) declared violative of Article 1 §2 of the United States Constitution and of the XIVth Amendment, §§ 1 & 2 to the United States Constitution, and to enjoin its enforcement and the conduct of elections thereunder. Thus, this Court has jurisdiction, sitting as a three-judge Court under Title 28 of the U. S. Code, §1343 and §2281.

IV.

Plaintiff-Interveners adopt all of paragraph III. of Plaintiff's Amended Complaint, including Exhibit A for reference, with the exception of sub-paragraphs H., I., J. and K., to all intent and purposes as if the same were copied in these pleadings verbatim.

V.

Plaintiff-Interveners adopt all of paragraph IV. of Plaintiff's Amended Complaint, except the last sentence of sub-paragraphs A. and B., as if the same were copied in these pleadings verbatim.

VI.

Plaintiff-Interveners adopt all of Paragraph V. of

Plaintiff's Amended Complaint, except that portion of paragraph III., to-wit: H., I., J. and K., as if the same were copied in these pleadings verbatim.

VII.

Plaintiff-Interveners adopt all of the allegations of paragraph VI. of Plaintiff's Amended Complaint, except sub-paragraph 8., as if the same were copied in these pleadings verbatim.

VIII.

That Plaintiff-Interveners further allege that S.B. 1 affects the voters in Districts 20, 21 and 23 as presently constituted, and that in Congressional Districts 21 and 23, which are combined with various outlying counties, the voters of said districts have, by this plan, been denied equal participation in the political processes and such plan tends to cancel out or dilute their votes. Further, that Congressional Districts 21 and 23 of S.B. 1 lack the constitutional requirements of compactness and community of interest between the various voters of such districts.

That S.B. 1 as drawn and passed in effect gives a "safe district" to the present incumbent congressman in Congressional District 20 by creating such district from the core of Bexar County which, in effect, causes the overage to be then placed within Congressional Districts 21 and 23. That said plan thereby leaves Bexar County, with a population of 830,000 plus, with only one congressman when, in fact, had the legislature followed the proper constitutional guidelines, Bexar County would, in all probability, elect two United States Congressmen. The total effect of said

plan then is depriving the whole of Bexar County of proper congressional representation and particularly those areas of Bexar County placed in Congressional Districts 21 and 23 by S.B. 1.

That Plaintiff-Interveners herein submit herewith a Congressional Redistricting Plan, Exhibit A-1, if this Court finds Senate Bill 1 unconstitutional, which we feel is a fair, equitable and just plan. Unlike the other plans submitted by Plaintiffs herein (Plaintiff's Exhibits B and C), and unlike Senate Bill 1, Plaintiff-Interveners' plan does not cross any county lines in the state except the necessary division of the metropolitan areas containing more population than necessary to elect one congressman. Plaintiff-Interveners' plan allows for a deviation of only two per cent and that said plan is offered to the Court for consideration by the Court if S.B. 1 should be declared unconstitutional in hopes of the Court's adoption of said plan or aiding in the redrafting of a Constitutional Plan.

ADDITION TO PRAYER

That in addition those portions of the prayer (paragraph VI.) adopted by Plaintiff-Interveners herein from Plaintiff's Amended Complaint, Plaintiff-Interveners pray that Congressional Districts 20, 21 and 23, as contained in the plan submitted by Plaintiff-Interveners, be adopted by this Court and, if not adopted, be considered by this Court in its redrafting of S.B. 1, which is the subject matter of this lawsuit.

Respectfully submitted,

NATHAN W. EASON

J. DOUGLAS MCGUIRE
400 Alamo National Building
San Antonio, Texas 78205
Attorneys for
Plaintiff-Interveners

[Attachments to this pleading omitted and not relevant to this appeal]

(Title Omitted in printing)

PRE-TRIAL ORDER

[Filed, January 24, 1972; signed, January 21, 1972]

On the 7th day of December, 1971, and again on the 14th day of January, 1972, pursuant to an Order of the Court, a pretrial conference was held in the above styled and numbered cause before the undersigned Judge at Dallas, Texas.

Appearing for the Plaintiffs was the firm of FISCHMAN, ROSENBERG, KASMIR & PRESTON, of Dallas, Texas, by Messrs. LAWRENCE FISCHMAN and DAVID H. ROSENBERG. Appearing for the Defendant was the Honorable CRAWFORD MARTIN, Attorney General of the State of Texas by Messrs. JAMES QUICK and SAM McDANIEL.

Based upon the pleadings, depositions, briefs and arguments of counsel at said pre-trial conference, it is ORDERED AND DETERMINED:

(1) PLAINTIFFS' CLAIMS:

(a) Plaintiffs claim that the congressional districts established by S.B. 1 are not as compact, contiguous and as nearly equal in population as is practicable; and, therefore, said statute violates on its face Article 1 §2 of the United States Constitution. Thus, Plaintiffs contend, that they and others similarly situated are deprived of their constitutional rights to have their vote count for as much as every other voter.

(b) Plaintiffs contend that the legislature, by

enacting S.B. 1, did not make a good faith effort to establishd districts which meet the requirements of Article 1 §2 of the United States Constitution that such districts be as compact, contiguous and as nearly equal in population as is practicable.

(2) DEFENDANT'S DEFENSES:

(a) The Defendant contends that the congressional districts established by S.B. 1 are as compact, contiguous and numerically equal as practicable, representing a good faith effort on the part of the 62nd Legislature of the State of Texas to comply with the requirements of Article 1 §2 of the United States Constitution.

(b) The Defendant further contends that such deviations as are found in S.B. 1 are constitutionally permissible as a practical systematic allowance for the growth and decline of populations within the 24 congressional districts in Texas.

(3) CONTESTED ISSUES OF LAW:

(a) In drawing a plan of congressional redistricting, can the legislature consider as a factor the minimizing of one incumbent congressman having to run against another? If so, to what extent?

(b) In drawing a plan of congressional redistricting, can the legislature consider "social", "economic" and "cultural" factors? If so, to what extent?

(c) In drawing a plan of congressional redis-

tricting, to what extent may the legislature consider geo-political boundaries?

(4) That a trial on the merits of this cause will be held on January 21, 1972.

(5) IT IS ORDERED, ADJUDGED AND DECREED that this action be heard before a three (3) judge court pursuant to 28 U.S.C. §2281.

(6) IT IS ORDERED, ADJUDGED AND DECREED that the Defendant's demand for a jury trial be, and the same is hereby, denied.

(7) It appearing to the Court that the Plaintiffs have brought this suit as a class action under Rule 23 of the Federal Rules of Civil Procedure on behalf of themselves and all other qualified voters, registered and unregistered, within the several districts wherein the respective individual Plaintiffs reside, as well as all other qualified voters in all other congressional districts in the State of Texas; and it further appearing to the Court that the number of persons comprising the class so defined is so numerous as to make it impossible to bring them before the Court; and it further appearing that the Plaintiffs, as qualified and registered voters, are fairly representative of the class as so defined; it is, therefore, ORDERED, ADJUDGED AND DECREED that this action is properly brought by the Plaintiffs as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure and may proceed and be prosecuted as such.

(8) It is ORDERED that this case shall be tried on the pleadings, depositions, exhibits, agreed testimony, affidavit(s), and stipulations.

(9) It is ORDERED that each side shall have one hour of oral argument before the Court; with Plaintiff to have forty (40) minutes to open and twenty (20) minutes for rebuttal.

(10) It is ORDERED that the following exhibits be, and they are hereby, admitted into evidence for all purposes: Plaintiffs' Exhibit 1, 1-A, 1-B; 2, 2-A, 2-B; 3, 3-A, 3-B; 4, 4-A; 5, 5-A, 5-B; 6, 6-A, 6-B; 7; and 8; Defendant's Exhibit 1; 2, 2-A, 2-B; and 3.

(1) It is agreed by counsel for both parties, and so Ordered by the Court, that all depositions taken or to be taken herein may be filed without the signature of the witness, with the same force and effect as though all prerequisites and formalities had been complied with.

(12) The Court finds and determines that it has jurisdiction of the parties and of the subject matter of this suit.

DATED at Dallas, Texas, this 21st day of January, 1972.

s / _____
ROBERT M. HILL
United States District Judge

Approved:
FISCHMAN, ROSENBERG, KASMIR & PRESTON
601 Kirby Building
1509 Main Street
Dallas, Texas 75201
744-5511

By: _____
Lawrence Fischman

Attorneys for Plaintiffs
CRAWFORD MARTIN, Attorney General
State of Texas

By: _____
James Quick
Assistant Attorney General
Attorneys for Defendant

Oral Deposition of

Gus Franklin Mutscher

(P. 2)

ANSWERS AND DEPOSITION of GUS FRANKLIN MUTSCHER, a witness produced on behalf of the Plaintiffs, taken in the above styled and numbered cause on the 1st day of December, A.D., 1971, before JAN STROUD, a Notary Public and certified shorthand reporter in and for Dallas County, Texas, in the offices of CLAYTON, FRIDAY, FRIEDMAN AND BURROUGS located at 900 West Avenue, in the City of Austin, County of Travis and State of Texas, in accordance with the agreement hereinafter set forth.

* * *

(P. 21)

BY MR. FISCHMAN:

Q Did you also invite inquiry or comment by any incumbent congressman or any member of the staff of an incumbent congressman?

A My chairman would be in a much better position to testify to that rather than myself. I don't remember it as one of my guidelines. I think I may on a visit with a congressman, or whether in Washington or through a letter of my staff, may have mentioned to them that this would be a major problem in the sense of the Legislature and if they had any feelings or any of their friends who were constituents of theirs had any feelings, we would certainly welcome any comments that they would like to make concerning reapportionment.

* * *

(P. 23)

Q Are you aware, Mr. Speaker, of any other ef-

forts on the part of the committee to ascertain the views of the incumbent congressional delegation or incumbent members of the delegation, I should say?

A Yes, I think that we had a chairman and several members of his subcommittee, may have had a—a—had a trip to Washington and probably attended the Texas luncheon, delegation luncheons that they frequently have and this gave them an opportunity to talk about redistricting, gave them an opportunity to submit some of their ideas and their plans.

Q Well, in point of fact, Mr. Speaker, that was the purpose of the trip, was it not, to meet with the congressional delegation and ascertain their views on how possibly the district should be drawn?

A I think that's—I think that's the way Chairman Jones has stated it and I don't know who went. I don't recall who went with him, but I do know that they—

(P. 24)

Q Did Chairman Jones report to you after that trip to tell you, whether officially or unofficially, what transpired?

A No more than the, that I recall, the general statement that the—that most of the members of Congress were pleased with an opportunity to present their feelings and that many of the congressmen were going to spend some time in assisting and trying to draft proposals as to how their recommendations might run.

Q Now, Mr. Speaker, do you recall, other than the statement that you alluded to awhile ago, the challenge that you gave to the committee, giving them any other instructions on what factors, if any, they were to consider in drawing the congressional districts?

A I don't think I reduced anything to writing in the form of any statement or addressed them any other time in the committee as a whole than at its

opening meeting. I have always felt that—and could very easily have mentioned to some of the committee members—that community of interests should be a factor, compactness, trying to minimize the crossing of county lines, but—

* * *

(P. 25)

Q The three that you listed, that is, community of interests, compactness and attempting, insofar as possible, to maintain the integrity of county lines?

A That is correct. And of course, always keeping in mind that number one was the federal case law in one man, one vote and the—and the tolerance factor.

* * *

(P. 31)

Q Now, you have already indicated to me, Mr. Speaker, that you have studied the applicable federal cases and that you have had considerable experience in the problems of redistricting because of your prior service. And based on your knowledge and experience, Mr. Speaker, would you tell me what you meant when you referred to this tolerance factor awhile ago as being one of the elements that you may have informally communicated to members of the committee that they should consider in drafting the bill?

A Well, when the emphasis was placed on one man, one vote, the tolerance factor, the way I see it, is—is the grouping of congressional districts or the forming of congressional districts all of basically the same size on a population basis with only slight deviations. And that deviation,

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of course, is referred to as a tolerance factor, because from a legislative point of view, it seems to be impractical or impossible to make them all of the—of the same number.

* * *

(P. 34)

Q Do you know what constitutes a reasonable tolerance?

A I don't—I couldn't reduce it to an exact figure, no, sir.

Q And to the best of your knowledge—excuse me. Go ahead, Sir.

A Well, I have in mind that we have studied cases maybe where the—where there's six per cent deviation and the courts may have upheld that case. So we may can presume from that point of view that this would be an acceptable tolerance mark. But here again, this could shift, so I don't—I don't know. I don't want to

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pinpoint it to a figure, because I don't know of one.

Q Was this, also, your view, Sir, during the session of the Legislature just passed, that you have just articulated to me?

A Yes, sir.

Q And did you also make this view known to the members of the committee and to the members of the House, either officially or on an informal basis?

A Yes. This would reflect my feeling.

Q And would it be your understanding that this, except for one or two or possibly more exceptions, would this have generally been understood by the House to have been a correct application of the law?

A That is correct.

Q Would one of the factors, Mr. Speaker, that would be considered validly in re-apportionment be maintenance of the integrity of existing districts insofar as possible?

A This point has been mentioned.

Q By whom, Sir?

A I have heard it argued by House members on

the floor of the House. I have heard

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some committee members make reference to it. I don't think it was given any priority as high as any of the other points that I previously mentioned.

Q Well, what I have said was a euphemistic way of saying that it was the desire or consensus of the House, so far as you knew, that you wanted to preserve the districts of all incumbents; was that not a factor?

A I would say it had to be—it was a factor that—a factor that was considered, yes.

Q Would you say that these factors were considered in different degrees of importance or were they all considered pretty much on an equal plane?

A I wasn't really that close to the drafting of the plan, so I—I—I really can't testify as to the mag—the strength that each one of these elements was given by the—by the committee.

* * *

(P. 40)

Q I'm going to ask the question another way. One of the factors, Mr. Speaker, that was considered was to prevent, as much as possible, the pitting of one incumbent against another, is that correct?

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* * *

A Yes, that is correct.

* * *

Q (continuing by Mr. Fischman) It was an important enough factor, wasn't it, Mr. Speaker, for Chairman Jones and some other members of the committee to make a special trip to Washington; I believe we have already established that, haven't we?

(P. 42)

A That is correct.

* * *

(P. 43)

Q You indicated awhile ago, Mr. Speaker, that you didn't have much personal knowledge of how the bills were actually drafted; is that correct?

A Well, I was under the impression

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from some degree of experience that congressional re-apportionment would be drawn by—by a conference committee. The pattern under the rules of the House, the House draws, generally, it's the House redistricting. In the Senate, it's the—. The House draws the House redistricting bill. The Senate generally drafts the Senate re-apportionment. And the congressional bill is generally a conference report, because the Senate will usually draw one version and the House will draw another version. It's just the practical aspect of the process.

Q Would you elaborate on that a little bit further, Mr. Speaker?

A Sure. I—during the regular session, the Texas House of Representatives, if I recall correctly, passed the first congressional re-apportionment plan. It was a lengthy debate. I don't think there was any cut-off of amendments. Each House member had an opportunity to present his or her plan. And we passed a congressional re-apportionment plan that went to the Senate. The Senate amended the House version and the House did not accept the Senate version and it was moved for an appointment of a conference committee and this was done. I appointed five

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conferees. The Lieutenant Governor appointed five conferees. But they did not complete their work in the first regular session. So congressional redistricting was one of the items to consider in the first called spe-

cial session.

And here again, the Senate passed a version that we amended. We went to conference. And the bill that was finally passed by both houses was a plan that was signed by the conference members.

* * *

A No, sir. To one—one qualifying extent. It was one time when the House conferees and Senate conferees seemed to be on a complete deadlock and the Lieutenant Governor had met with the conferees and I was called to visit with the conferees and try to resolve a practical problem; that does exist in conference. And this was resolved and then the conferees resumed their work.

Q What was that, Sir?

A It was probably the more publicized adjusting of counties in the East Texas area. It

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was a practical situation that existed. I had Clyde Haynes, who was my chairman of labor, from Orange, was one of my conferees. The Lieutenant Governor had Senator Wilson, Senator Patman, Senator Hall and Senator Jordan and all four of those was over in this East Texas area. And they had one version and Clyde Haynes had—Representative Haynes, excuse me, had aonther version. And they seemed to have got a—the conferees became locked on this issue. And it was merely a moving of a county of twenty thousand in one area into it and taking them out in another area.

Q What was the importance of that that it ground this whole thing to a halt, as it were?

A I would only term it as some of the practical aspects you face in redistricting.

Q What would that be, Sir?

A Elected representatives from the same area

having a practical different view on how the line should be drawn.

Q Well, do you recall what the competing—

A Well, the publicized incident was that you had some three or four members who was interested in possibly running for Congress.

(P. 47)

Q Would you tie that down specifically, Sir, if you recall?

A Well, I don't ever like to announce for any other candidate and I don't know if it was right to even publicize then that they were planning on being candidates. It did cause a little legislative hassle at the time. I think since then, Senator Jordan has announced. I think Senator Wilson has announced. Representative Clyde Haynes has not. And so this was some of the practical aspects of it.

* * *

(P. 50)

Q And is it your testimony here today, Sir, that those deviations could not possibly have been avoided?

A The—the—the approach to redistricting determines as to what can be avoided.

(P. 51)

I would say that it is my feeling that the conferees signed a bill where the tolerances were supported by good reasons or they had reasons for their deviations

* * *

(P. 53)

Q If I understand you correctly, Mr. Speaker, while you concede that it would have been theoretically possible to draw the congressional districts to be more mathematically equal than the

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bill that actually came out, you feel that the bill that was passed was the closest that could possibly be done

considering its various other factors?

A I think—yes, sir. And I think the House bill was tighter in tolerance in the final draft than it was reported out of the conference committee.

Q What, how come the House, then, I don't know, it's kind of a hard question, but then the House subsequently adopted the bill that came out of the conference commitee, did they not?

A Yes, sir.

Q Why, why did they go with this bill with looser tolerance?

A Well, it's—it's—it's difficult to say in words. But from a practical point of view, it's having to deal with additional people and the satisfying of more people. It—it does seem to have some more loosening of the tolerance effect than the tightening aspect of it.

* * *

(P. 57)

Q Did anybody examine these bills before they were, you know, check them for typographical errors?

A Yes, sir. We have several staffs that do work on them, but you pretty well have to experience the working conditions to want to defend and appreciate the work that is done that—

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that comes out on these projects.

Q Well, what, would you elaborate on that answer?

A Well, I do to this extent, I—I think it's—it's easy to make an issue out of an error and rightly so, sometime, because of its magnitude and its effect on the final version of the bill. But then at the same time, well, you may be fighting the fact that the author has to get his bill up on a certain calendar day of the week or else it will carry over into the next week. When you stop and think that the staff is—the final draft is getting down to a point where they have to work and kind

of eliminate some of the conversations and the arguments that go on around a conference table. And sometimes, there are—there's a last minute compromise change and this has to be implemented and one of the staff people might overlook it or something. I think there's—there's some real administrative assignments that must be carried out. And as presiding officer, I'm always of the type that before I criticize one of my staff members I would share the responsibility myself. And there's lots of room and desire to be improved in the legislative process, but it's the

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staff members that we have and still do a wonderful job in my mind.

* * *

Q In other words, if I understand you correctly, Mr. Speaker, and far be it from me to put words in your mouth, what you're saying is that mistakes can happen when you're operating under the pressure such as the Legislature operates under?

A That's right.

Q There are deadlines and crowded calendars and what-have-you?

A That's right.

* * *

Q Was there ever an effort made to your knowledge to achieve absolute mathematical equality?

A I think, here again, that the conferees tried to draw the bill as tight as they possibly could to the average of four hundre dand sixty-six thousand or what the average number might be, but we have to acknowledge that there would be tolerances and that the tolerances could be justified.

Q To your knowledge, Mr. Speaker, was there any factor in this tolerance equation based on projected population changes?

A Not to my knowledge. I—I—I take it—I'll qualify it to this extent. I did hear conferees in one area say, "Well, from

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statistics, this appears to be a growing part of Texas—

Q What is this that you're referring to?

A —where this other one appears to be a declining area." I think this was probably made to justify some of the wider-spread tolerances that may have existed in the so-called non-metropolitan congressional districts.

Q Can you refer to any specific district or—

A I would have to have—

Q —geographic area? Would it help you to refer to a map, Mr. Speaker?

A Well, I—I think you pretty well have to take the counties. I think it was—it might be mentioned that the, say, the trend in Harris County looked like they were growing much faster than they may be in San Angelo or Abilene, for example.

Q Well, how was this—

A But our population—

Q Well, let me ask this question: How did the population projections figure into the equation; was a district intentionally underpopulated in order to allow for growth in the future or

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exactly what was done, if you know?

A To the best of my knowledge, I think that they, in—in attempting to draw the bill with one man, one vote and come as close to it as they possibly could, and then when there was some deviation or some need for having a wider spread, they would look at this projected population pattern. But as to the exact districts, I'm not—I'm not aware and I—

Q Art you saying, Mr. Speaker, that these justifi-

cations came ex post facto?

A I—I think it came as a—I don't think the bill was drawn definitely with that as a—as a—as a main element. I think when you—when the lawmakers found that they had reached a blockage area, so to speak, in drafting redistricting, that they had to take into consideration all factors. And then of course, they took the population growth factor into consideration.

The members of my committee would be more articulate on that element than I would be. And I—I don't want to be speaking for someone else.

* * *

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Q (continuing by Mr. Fischman) What population figures were utilized in the drafting of the House bills, to your knowledge?

A The House congressional redistricting bill?

Q Yes, sir.

A To the best of my knowledge they were using the—the latest figures put out by the federal census bureau.

Q Were there any figures on voter registration or anything else other than raw population used?

A I'm sorry. I couldn't—I don't know.

Q Would the same be true to your knowledge of the conference committee bill?

A To my knowledge, yes.

Q In the press release, Mr. Speaker, that was introduced as Plaintiff's Exhibit—offered as Plaintiff's Exhibit Number One, you use the word "geographic needs"; by that, you

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meant preservation of county lines as much as possible?

* * *

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BY MR. BAILEY:

Q Mr. Speaker, would it be a correct summation or not of what you have said that what you hoped and charged the members of the Legislature with was to come up with a bill that, first, came as near to being mathematically equal for one man, one vote as they could get and to also take into consideration, I believe, the other factors that you have enumerated, such as compactness, community

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of interests and cutting as few county lines as possible, that this is what you charged your committee and hoped the Legislature would come up with in the way of a congressional redistricting bill?

A That is correct. The only other element that would be—right after one man, one vote, the federal case law—would be awareness of our own state constitution and then the elements that you have mentioned.

* * *

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MR. FISCHMAN:

Q In response to Counsel's question that the committee tried to draw—I'm paraphrasing now—the committee tried to or the Legislature tried to draw the bill as mathematically equal as possible. And then except for certain factors, he enumerated several factors, but he did leave out the factor of preserving the integrity of existing districts, which, I believe, you testified was one of the considerations, is that

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right?

A I didn't—I didn't mean to change my position from what I previously stated on that. I did state it as a factor.

* * *

Q And it's, I believe, your testimony and I think

the record will show that the bill that was enrolled by the House could not get through the Senate or did not get through the Senate?

A Did not get through the Senate.

Q Was there any substantial effort made to get it through?

A No, there was—there wasn't any lobbying on my part with the Senate as in respect to the House bill and I don't think it would have been expected or right for us to do so.

Q Well, did you ever confer with the Lieutenant Governor in regard to congressional

Oral Deposition of

Ben Barnes

ANSWERS AND DEPOSITION of BEN BARNES, a witness produced on behalf of the Plaintiffs, taken in the above styled and numbered cause on the 3rd day of December, A.D., 1971, before JAN STROUD, a Notary Public in and for Dallas County, Texas, in the offices of CLAYTON, FRIDAY, FRIEDMAN AND BURROUGHS located at 900 West Avenue, in the City of Austin, County of Travis and State of Texas, in accordance with the agreement hereinafter set forth.

* * *

(P. 5)

DIRECT EXAMINATION

BY MR. FISCHMAN:

* * *

(P. 7)

Q We'll get it there. That's all right. Did you give any instructions or charge, as it were, to Senator Word or the entire committee at the regular session?

A No. I—I—I gave no charge to them. Informal discussion with my—my committee chairman, Senator Word, I had great confidence in him and the other members I appointed, Senator Word being a lawyer and having had experience with redistricting bills in the past, I said, "We want to get as good a bill, constitutional bill, as we possibly can."

Q You were aware, then, of a certain amount of difficulty in arriving at that because of the various federal court cases involving redistricting, were you not?

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A Yes. But I had—I had faith that we could draw

a constitutional bill. It's—it's difficult to get any bill passed through the legislature on re—any redistricting.

Q Why is that, Governor, based on your experience in the Legislature?

A Oh, I think that members of the—members of the Legislature have an unfortunate situation in Texas that they don't have annual sessions of the Legislature. They need more—they—they need more time to spend on their legislative duties. Three thousand bills in one session is too many bills to consider.

Q Well, there are other factors than that and we're discussing, particularly, the matter of redistricting, are we not?

A Well, I think redistricting in Texas, as in other states, has become more difficult because of the shift from rural to urban and the fast-growing areas makes it more difficult, yes.

Q Governor, in all candor, it's a matter of politics, isn't it?

A No, I don't think that—that redistricting is any more a matter of politics than a lot of other issues that are settled in

(P. 9)

legislative bodies. I think it's—I think it's—it's very easy to call any—anything before the Legislature, any decision they make is political, but I think it might—the men I appointed, the men and women I appointed did—did the best job that—that they—that they could. And I—I—I think Senator Word is probably the least or the most non-political man in the Senate, as far as the chairman.

Q I want to get into that a little bit later, but I would like for you to tell me, first, are you aware, as I understand, Senator Word introduced a bill within the first sixty calendar days of the session just as a

basic working bill that they could progress from, were you aware of what criteria the committee considered in drafting that bill or in drafting any of the subsequent proposals or the bill that was finally passed by the Senate in its regular session?

A Well, in all candor, I'm probably—I'm probably not familiar with the criteria. I never discussed with Senator Word exact what criteria. I read in the newspapers what people always say about compactness of districts and—and community of interests and other phrases that

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the courts have—have written in various and sundry decisions, but I had faith and confidence in—in the job that he was doing, but that—there were no guidelines I laid down nor—nor did I discuss with them what—what—exact what criteria they should follow.

Q Governor, as I read the newspapers, the newspapers report that on more than one occasion you expressed—I'm trying to choose my words carefully and if I don't, why, you use yours—

A Okay.

Q —expressed some concern about trying to minimize the possibility of one incumbent congressman having to run against another; do you recall ever making such an expression?

A Well, I think on—I think, certainly, that I made statements that we hoped that—that we could or that I felt like the seniority in Congress, both Democrat and Republican, were assets of our—of our state. I think that's what you're referring to and that would fit in with what you just asked.

Q Well, it's true, is it not, that this was one of the criteria that was considered by Senator Word and by the rest of the committee?

A I think every member of the Legislature

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is under a great deal of pressure from his constituents to—to keep their county in—in a congressional district that's community of interests or keep their county in—in with the surrounding counties. And certainly, that there was a great deal of political pressure from the people of Texas from various and sundry interested groups about what congressional district that particular section of the country was going to be in or whose congressional district that particular section of the state was going to be in.

Q Well, one of the groups to which you allude in your answer to my last question, would that have been the incumbent congressmen, themselves?

A Well, I'm sure that the incumbent congressmen were very interested in their individual districts. Incumbent congressmen were—would be very hesitant to talk to me specifically about, "Well, look, this is—I want my district like this." Maybe—maybe in talking to their own individual House member or senator they would, but—

Q Well, did any of them actually

(P. 12)

overcome their reticence and discuss it with you?

A Well, other than every time I would see them, "Well, how are you all coming on congressional redistricting? When are we going to get a bill?" I mean, this type of thing. Or, "I know you—you know I'm your friend." The—the normal statements that you would hear and would—and would expect to hear.

Q You used the word "pressure" a moment ago. While this might not have been pressure on you, per se, since you are elected by the state, by the people of the state at large, would this, to your thinking, constitute a pressure on particular representatives from a given congressional district?

A Well, I'm sure the people in—in Comanche and Brown County, my two home counties, wrote, contacted their House member and their senator and—and told them that they wanted to remain in—in the Seventeenth Congressional District, those that contacted them on congressional redistricting. Maybe some contacted them and said we didn't want to, but I would be surprised. I'm—I'm sure that ninety per cent of the contacts they had were from their constituents in their district

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wanting to stay in that particular congressional district. And I'm sure every other House member and Senator falls into that exact category. I mean, probably three hundred Chamber of Commerces passed resolutions and sent to the Legislature wanting their particular city in some particular district.

Q To your knowledge, Governor, did any incumbent congressman, either in person or through a member of his staff or an interested intermediary, ever submit a proposed district for himself?

A I really don't know. I—the members of the committee would know that, but—but I really don't know.

Q Were you aware, Governor, of the fact that a number of senators and members of the House that were concerned with congressional redistricting made a trip to Washington to discuss the matter with the congressional delegation?

A Yes, I was aware that the House committee. I think that Governor Smith's plane carried the House committee and the House committee invited some of the members of the Senate committee to go to Washington and they did. I remember that

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Senator Word did go, but I—I don't remember—I can

find out—

Q Senator Mauzy, too, I believe?

A Senator—Senator Mauzy was not a member of that committee, but if—if—he was a member of the big committee. He was not a member of the congress committee. Did—did he go on the plane? I didn't know. But—but several members of the Senate did go. I do remember Senator Word went.

Q And did anyone have occasion to discuss with you what transpired at that meeting in Washington?

A Oh, not to my memory, other than—than talking to Senator Word that they went and—and he said they had a good visit with the congressional delegation. We didn't talk any specifics about—about the trip as far as what any individual congressman may or may not have said. As presiding officer of the Senate, I try to stay uninvolved in—in—in the particulars with—well, first of all, time prevented me from doing it even if I had wanted to, but I—I try to stay as uninvolved as best as I could in what—in what the committee was doing.

(P. 15)

Q May I take it, then, by your answer, Governor, that neither you nor your staff made any specific suggestions to the committee?

A Well, I made some suggestions, in that when we got into the special session and they hadn't gotten a bill, on one or two occasions, I remember one time late at night, perhaps with a little too much emotion, I—because I was—I was a little angry at that time, because the committee—I've forgotten now. We had been in session three or four days and they had been meeting and—and were at an impasse on—on getting a bill. And I remember one time, specifically, I went to the committee and suggested that they get a bill—they—that the Senate and the House to get back to

me, as president of the Senate, a bill as quick as they possibly could. I even think I went probably as far as to say I might even discharge some of the members of the conference committee and appoint a new one if they didn't—

Q But you made no specific—

A I—I didn't—

Q —recommendation as to the substance?

A No, I didn't, no. No, I didn't—

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I—I wasn't talking about substance.

Q Did you make any such recommendations at the regular session of the Legislature?

A Not to my knowledge, as—as far as the committee. I'm sure that I—that I inquired several times of Senator Word to get a—to—to be working on a bill. They were working on a senatorial bill, also, and I was trying to get a senatorial redistricting bill out. And I'm sure—I may have in a speech to the Senate urged them to work on—to work on—on congressional and senatorial redistricting. I might—I might have said this in the press several times, urging them to get a bill, but as far as specific recommendations, I never made any.

Q Well, Governor, I have reference to an article in the *San Antonio Express* on May 29th, 1971, the pertinent part, which I'll read to you and ask you if that's accurate. According to the article, it says that, "The Senators took only twenty minutes to pass the bill," referring to the congressional redistricting bill, "once they received the revised committee version in printed form. Lieutenant Governor Ben Barnes disapproved the original committee-approved draft

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and ordered it redrawn before permitting it to be brought to the floor about 9:50 P.M. The portion of

the committee bill disapproved by Barnes was the Dallas-Fort Worth area"; do you have any recollection of that, Governor?

A This was during the special—this was during the regular session?

Q May 29th.

A Yeah, I guess—I guess it was the last day of the—

Q Of the regular session?

A No, I don't have any recollection, but I can—I may can talk to Senator Word or we can—or the committee staff and come back—can find out exactly what—what the problem was. But if they only withdrew—they only redrew the Dallas-Fort Worth lines, is that—is that what it says?

Q Well, let me show you what I'm talking about, Governor. That might help you. This paragraph right here (indicating).

A No, I don't remember that. I really don't know. But I would—I would think that—that probably in—in looking at the map, I—I—I could say if I objected to it. I'm—

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I'm not a student of redistricting as far as what that first bill did to Dallas-Fort Worth. I'm sure that the—that the lines may have looked gerrymander to me and I—and I may have raised that question. And I use gerrymander very loosely from the standpoint of how it looked. I—I shouldn't get this into the deposition. When I think of gerrymander, I think of Senator McKool's district that he—that he presented to the Senate for the—for the Senate redistricting bill where—where there was an umbrella shape that went up and got his house in Dallas County and then came down one precinct long down and then—and got the bulk of his district. I'm sure that there was something peculiar

about it that I would raise objections to it along those lines, but I—I—I really don't remember specifically. And I'm sometimes given credit for in newspapers what I do not do, but—but if that's—I'm—I'm not arguing with the press there.

Q I understand that, Governor. I just suggested it to you in hopes that you might have some recollection of what this referred to.

(P. 19)

A No, I—I really—I really don't have any recollection.

Q Do you have any recollection of expressing your thoughts on the shape or existence of the new Twenty-fourth District, that is what we refer to, Mid-Cities District?

A No, I really don't. As a matter of fact, it's only until recently that I have been able to even determine exactly where those lines were myself—and who's in which district in the Dallas-Fort Worth area.

Q You didn't particularly take note of its shape and feel that it was—

A Well, I—I didn't—I'm sure that if I had thought that it had not met what—what I considered to—to be a reasonable district that—that I would have raised some objections at that time when the committee went over it with me and when I saw the final printed version, but I don't—I don't remember raising any objections at that time.

Q To direct your attention, Governor, to the Harris County Gulf Coast area, are you roughly aware of the districts as they stand now? I don't mean do you know precisely where—

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A I don't know precisely. Yes, I'm—I'm aware of basically—

Q I understand that the Eighteenth District that

was created under SB 1 is in the central core of the city of Houston; is that your recollection of it?

A Yes, it is. I don't—I'm not familiar if that is the number, but there is a district that is—

Q And I believe that's the one that Senator Jordan has announced as a candidate in the Democratic primary for; do you have any knowledge of that?

A Well, I—I know that she's going to be a candidate. Has she announced yet? She may have already announced, but I don't think she has formally announced.

Q But you read the papers and you know that that's supposed to be Barbara Jordan's district, is that correct?

A No, I don't—I don't know that it's supposed to be Barbara Jordan's district. I—I do know that she's made her intentions known to run for Congress.

Q And were you aware, Governor, of the

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effect of the creation of that district on the other districts lying wholly or partially in Harris County?

A I'm not too sure I understand what you mean.

Q Well, what I'm getting at, Governor, is this: that Eighteenth District is plopped down more or less right in the middle of Houston. It's a little bit to the north side, northeast side, but basically, it's right in the middle of Houston. And then the other districts seem to be peripherating around it; do you have any knowledge of why that particular group of contiguous districts was drawn in that manner?

A Well, I would say that—that those districts, as do the senatorial districts in Harris County, try to—try to recognize community of interests. You—you can go several different ways about dividing an urban county. I—I—I remember the court has—has criticized some pie-shaped districts coming in and—and

everyone represents a little bit of the center and coming out. It—it's very hard for people living in those urban counties to distinguish the district lines. I guess there are twenty to thirty

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different thoughts on how to divide—divide urban districts, but—but I think that the Senate Bill 1 version is—is a fair and equitable way to divide Harris County.

Q You were aware, were you not, that this central core district of Harris County has extremely heavy ethnic minority population, that would be black and brown population, are you not?

A I'm aware now that—that—of the percentages. I was not aware of the percentages of black-brown versus white at the time the bill was passed. Obviously, I knew a lot of people, a—a lot of the—of black Texans lived in that district.

Q And you would agree, would you not, that the effect of creating that district would have been to remove a number of predominantly black and brown census tracts from the other congressional districts peripherating around that Eighteenth District, will you not?

A Well, I'm not sure that I was aware at the time of the bill. As a matter of fact, I'm not aware now of —of what percentage black are in the other congressional districts. I know that there—there are some—there are some—

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there are black voters in—in some other of the congressional districts, but—but at the time the bill was passed, I—I wasn't aware of the percentages of whites versus black in that district or any other district. You're saying that—that if—if that district had a high percentage of black, then there wasn't—the other

districts had to lose some of their black population?

Q Governor, I'm not supposed to testify, but I think you have gotten the inference of my question quite well. Let me move on, then, and ask you this: were you aware, Governor, of a shift of several predominately black census tracts in Dallas County from the district of which Congressman Cabell is the incumbent into this new Twenty-fourth District?

A No, I was not aware of that. I was not at all.

Q Governor, to your knowledge based on your legislative experience, and the fact that you are trained in the law, what criteria may be considered in drafting a congressional redistricting bill?

MR. McDANIEL: I think that calls for an opinion, which he

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can express if he wants to, but it's certainly not factual testimony.

MR. FISCHMAN: I understand that, Counsel. And I would appreciate the Governor's thoughts on it.

A Well, Larry, I really—I mean, I can—I can quote back to you all—all the terminology that everyone that talks about redistricting speaks of, but I don't have any new criteria. We can talk about community of interests and, certainly, we can talk about areas contiguous to one another. And I—I—I can go on and do this, but I—I don't know that I can add anything new to—to a definition of—of what the ingredients are for—for a constitutional redistricting bill.

Q All right. Governor, it's, as Counsel has pointed out, it would just call for an opinion and probably wouldn't carry much strength as admissible evidence in a legal proceeding. Let me ask you this: I get the impression from your testimony here this morning that certainly the committee chaired by Senator Word

considered

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population as a factor in drawing the congressional districts?

A Yes.

Q And I think it's fair to say, Governor, that the committee also considered preserving as far as possible the integrity of existing districts so as to preclude as much as possible one congressman having to run against another one?

A Well, I would think that that was part of the criteria, but, of course, when you're—when you're moving districts to urban areas, that's—that's impossible, as—as it was in this last congressional redistricting bill.

* * *

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Q Governor, were you aware of the numbers in the, that is, the mathematical population of each district under the three bills that were eventually passed, that is, the House bill that was sent over and then the Senate bill,

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which was a substitute, and then finally the bill that was passed in the special session, were you aware of the numbers involved in each district?

A Are you talking about the percentage of deviation?

Q Well, not necessarily expressed in percentages. But were you aware that some districts were under and some districts were over?

A Oh, yes. I'm—I'm sure at the time that—that I was much more aware than I am now. I can't tell you now which districts were under and which districts were over, but I'm sure at the time that—that I—well, I had in front of me the population of each district. It

was printed on the—it was printed on the—on the map that was passed.

Q Was a map actually enacted as part of the bill?

A Well, it wasn't enacted as part of the bill, but Senator Word had a map with the congressional lines drawn on it, I think, at his desk at the time that the—at the time the bill was being passed. But that doesn't help any in the urban areas, because the map's about —was—the maps were about the size of your—

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Q Right.

A —newspaper maps, so it doesn't show the—the division of districts in urban areas. It just shows Dallas and Harris County and Tarrant and Bexar divided into—into districts.

Q Then were you aware, Governor, that the bill enacted by the House deviated less on the averages than the bill that was enacted by the Senate or the bill that finally passed as SB 1 in the special session?

A No, I—I—I cannot say that I was aware at that time.

Q Can you tell us what was wrong, to use a word loosely, with the House bill that was sent over and was rejected by the Senate?

A No, I really can't tell you what was wrong with it, because I—I really don't remember exactly how the House bill differed from the Senate. I think from a—I—I think from a practical standpoint that—that there were not—that there were not sixteen votes in the Senate for it. I think that was the first thing that was wrong for it. The Senate wanted to—to write their own bill and I think there's a great deal of, perhaps, of pride of authorship, so to speak. I have

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been a long proponent of—of—of changing our conference committee system in Texas. But as you know,

most important legislation under—under Texas legislative rules is written in conference committees. I would like to change this. And I'm editorializing your deposition. I apologize.

Q Go right ahead, Governor. Governor, you're quoted in the *Corpus Christi Caller* on February 28th, 1971, as being in agreement with Representative Delwin Jones of Lubbock, who was the chairman of the House redistricting committee, that the Texas senior congressmen should be preserved; do you recall ever making such a statement?

A I have said—I have said in several speeches that—that our congressional seniority is a—is a good asset or a great asset for Texas in Washington and that I hope that—this was back during the time of the session—that I hope that our seniority could be preserved to the best of the Legislature's ability.

Q And that they should consider this as a factor, Governor?

A Well, certainly, it—it was—it was on my mind as a factor and I'm sure it was, to

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some extent, it was on their mind.

* * *

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Q I'm not sure, Governor, that it's clear to me why the House bill didn't get through the Senate. Could you try and run that by again?

A Well, not having the two bills here in front of me, I cannot discuss the particulars. But I think on congressional redistricting and like all other matters, that there's a great deal of Senate and House pride. Very few bills of real importance pass both the House and the Senate. The Senate passes a version and the House passes a version and the differences are arbitrated in the

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conference committee.

Q And you don't recall without having the bills in front of you what the substantial differences were?

A No, I—I really don't.

Q And you don't recall being aware of the fact that the average deviation in the House bill was much less than either the Senate substitute bill or—

A Or the conference committee report? No, I really don't know.

Q Is it your considered judgment as presiding officer of the Senate that this was the best bill that they could have passed?

A Yes. I—I'm—I have got enough faith in the people that I appointed to the committee that they came up with the best possible plan that could pass. I read stories about—about junior high students sitting down and drawing redistricting maps in an hour's time and their being better than the bills the Legislature passed, but I think when you realize how thedemocratic process works, it's—it's slightly more different —difficult than it would assume to a layman.

Q I take it that's because that the

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Legislature, as the elected representative of the people, has to consider factors other than just pure mathematical drawing of lines?

A A man has to to the best of his conscience represent the constituents that elected him.

Q And they have to consider other factors in drawing these bills other than just population equality?

A Well, I think it would be less than candid on my part if I said that the—that the population was the only factor, but I—I think that they did to the best of their ability draw a constitutional congressional redistricting bill.

Oral Deposition of

Gregory Drew Hooser

* * *

(P. 6)

Q She's concentrating on her pad. Were you employed, Mr. Hooser, by any agency or department of the state of Texas or the Legislature during this last session of the Legislature?

A Yes, I was.

Q What agency was it?

A By the Senate of Texas.

Q Is Austin your home town, incidentally?

A For the last thirteen years.

Q How do those, I remember from my own

(P. 7)

law student days, those positions are, shall we say, coveted, how did you happen to come by yours?

A That's a difficult question to answer. I initially began working for the secretary of the Senate as a Xerox machine operator my sophomore year in college.

Q And you have just kind of—

A I suppose.

Q —stuck with it ever since?

A I worked my way all the way through school.

Q What were your duties as an employee of the Senate during this last session of the Legislature?

A I was a clerk to the Senate committee, Senate redistricting committee. I think the official title is legislative judicial districts. I was employed as a clerk —clerk under the chairman of the committee, Senator J. P. Word.

Q What were your duties in that capacity, Mr. Hooser?

A I was generally directed to provide the commit-

tee with information, try to gather it, make it available to the Senate redistricting committee for the purpose of redistricting the

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legislative senatorial and congressional districts. Generally, I was an errand-boy when it really comes down to it.

Q Did you attend committee meetings?

A Yes, I did.

Q And did you do legal research?

A I suppose you would have to call it research, yes. I looked through a number of cases, tried to—mostly, my—my job was gathering material, like trying to get information regarding census data, trying to get maps prepared and make them available for the members of the Senate whenever they wanted to work on anything, answer calls, set up the committee meetings, general clerk work that was done in the Senate.

Q Did you also perform these same functions during the special session?

A Yes, I did.

Q Did you serve the members of the Senate and House conference committee on redistricting?

A Yes, I did, as a clerk to the Senate conferees.

* * *

(P. 11)

Q Well, what were you doing all these maps for?

A Well, we were trying to simply take a look, mainly, at our problem, at—at what would be—what were the possibilities, what were the requirements. First of all, when you draw a map, if you try to set down, and you end up with locating

(P. 12)

your problem areas.

Q What do you mean by "problem areas," Mr. Hooser?

A Well, when you draw a map you merely discover that in certain areas—

Q I wish, Mr. Hooser, that you would, insofar as you're able to recall, be specific about what areas you're talking about.

A Oh, that is going to be difficult.

Q Generalities, while they are helpful to me, won't be near as helpful as if you can recall the specific things that you're talking about.

A Well, you—you have to sit down and draw a map, for example, that specifies, that will give you an idea of how many districts you can draw in a—in a metropolitan county and what your surplus will be and what counties are contiguous thereto and that sort of problem.

Q Any other problem areas that you can recall?

A No.

* * *

(P. 13)

Q Did you ever have occasion to compare the census data to any proposed bill to determine

(P. 14)

whether the districts that were contained in the bill were either above or below the mathematical ideal, four hundred and sixty-six thousand five something?

A I'm sure I did, but I cannot recall. We—we always attempted to check percentage deviations, but I don't remember any specific.

Q I'm not asking if you can remember any specific figures. But what was your purpose in doing that?

A We wanted to know what our—what our population was and what our distribution was in a given district.

Q Were adjustments made—well, let me back up just a minute. You haven't told me how many bills were submitted; was there a number of bills or how

did it go about, from the original bill submitted by Senator Word, I want you to trace for me the steps, the process, of the bill that finally ended up as a substitute to the House bill?

A We simply took the base bill that Senator Word had introduced, then adopted a substitute that was worked out by the members of the redistricting committee.

Q How was it worked out is what I'm

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trying to get at?

A In consultation with each other, with members of the Senate.

Q Were you privy to these consultations to any extent?

A No, not to any extent, no.

Q I'm trying to get at what they actually did. How did they go about doing it; did they sit down with a map around a table or on the floor and draw lines or what did they do?

A Any particular message would be simply assumption since I was not privy to—to their considerations. It would be an assumption that they discussed how to tie up the program, how—I feel confident that the committee members drew their maps, that they compared maps with each other. And that's—that's all I can guess at.

* * *

(P. 17)

Q Now, I want to clear up in my mind. The map that you're referring to and any map that you prepared was prepared as a result of compiling data. In other words, you would sit down and say, "Well, the First District needs to have so many people in it and we can go at it by putting in these counties and these census tracts," and then you would, when you figured

out what went in there, then, you drew a line on the map, is that correct?

A That's—that's roughly correct, yes.

Q Well, how, you know, if your

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recollection of it differs, please tell me how it was different?

A I suppose that's a fairly good description of how it was done.

Q In other words, somebody would say, "Well, we ought to have such-and-such county in somebody's district," and then he would see what the population was and if it could be fitted in, then, he would draw the line so as to encompass that county in the district, is that right?

A Partly. Partly. The—the problem was attacked from every angle that it could be attacked from. Some districts, for example, there was no difficulty in El Paso County, because El Paso was—was quite near to the—I'm sorry. I'm—I'm jumping to—to another bill, jumping to another bill, to the Senate bill. There are some counties which—which—which were so close to ideal that there were no significant difficulties.

Q What about some of the urban areas such as Houston; how was that done?

A Approximately the same way, speaking in generalities. We just decided how many districts were—should be put into a—into a given county and the lines were drawn accordingly.

(P. 19)

Q Well, now, when you're dealing with an urban county like Harris County, for example, you would consider it by census tract, would you not?

A Yes. The bill reflects that census tracts were the basis for the inside metropolitan areas. That's the lowest available population figure we could get during

the session, because our figures, census figures that were available at that time were—went no further than census tracts in enumeration districts.

Q Where did you get your figures, incidentally?

A Directly from the Census Bureau.

* * *

(P. 20)

Q I take it the committee did meet formally from time to time, did it not?

A It did.

Q On how many occasions did it meet, to your knowledge?

A I do not recall the exact number.

Q The minutes would show that?

A Yes.

Q Were you present—you did indicate you were present at some of the, if not all, of these meetings?

A At the committee meetings, yes. I was present at most—most of them.

Q What, other than what's reflected by the minutes, what type of discussions were held?

A I can't recall. It's been too long.

* * *

(P. 22)

Q The population data that you used, that was just a raw body count; it was not refined further by anything such as voter registration or ethnic composition or anything like that?

A None of that information was available to us. The raw body count was the only thing that

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was available during the Sixty-second Legislature. In fact, we didn't have a raw body count until a good while after the session had convened, which I think was March was the first time we had anything we could work with at all.

Q Was any data made available to the committee on projected population trends at any time?

A The census information, itself, shows trends, or not trends, it shows the growth pattern between 1960 and 1970.

Q But you had no demographic projections?

A No, uh uh, none.

Q At any time during the session?

A No. The only—the only bases that could be made is the fact that the growth patterns which were reflected in the '60 to '70 growth could be projected into the 1980's. And this information was available to them, as I said, through the census population figures between 1960 and 1970. And the general—and the general trend of that information was that Texas was experiencing a continued concentration of growth in the—in the urban areas, particularly along two strings

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from—from Denton County to—through San Antonio and from Denton County through Fort Worth-Dallas to—to Houston. And most of the rest of the state as a rule is decreasing and will continue to do so.

Q That's, I take it, an expression of your opinion?

A Well, I—I would have to say that probably is strictly—strictly opinion, but it is opinion based upon the '60 to '70 data.

Q And that's all?

A No. It's based on—on other reports that we received, we had received, I was aware of through my study at the University.

Q That's what I'm trying to get at. What other reports did you receive?

A Oh, I had read a number of things from the Bureau of Business Research. I—basically, information in—in classwork I had done at the University while an undergraduate.

Q What, was this information also passed on by you to the committee?

A I mentioned it to the committee members, yes.

Q But you don't know whether it was

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considered?

A No, I don't.

Q And did you ever organize it into any kind of memorandum or other presentation?

A The—the—the information about the growth trends from 1960 to 1970 were made available to all members of the Senate through the census data that we made available to all members.

Q But this other demographic research that you did was not made available in any organized manner?

A Well, not that I can recall.

Q Were you aware, Mr. Hooser, that the Senate bill, that is, that was a substitute of the House bill deviated in almost every district from the mathematical ideal?

A I would assume that would be true.

Q Well, were you aware of it, Sir, at the time that the bill was being considered and at the time it was passed near the end of the session?

A To my knowledge, at least most of the districts did not equal the four sixty-six, I think, five three zero figure.

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Q And you were aware that some of them deviated by as much as two per cent or more?

A I don't recall the deviation.

Q What justification, if any, was discussed, either in the committee or otherwise, to your knowledge, to account for these deviations?

A I don't recall the justifications that were presented.

Q Were you aware at the end of the special session that the bill passed by the House at the end of the regular session deviated less on the average than the final bill that was enacted, that is, SB 1?

A I don't recall the deviations of either the House or the Senate bills, because simply too much time has passed since that time.

Q And you recall no specific discussions about this at the time? You're nodding?

A Oh, I'm sorry. No, I do not.

Q You were asked never to supply any data on voter registration during the course of the winding of these bills through the legislative process?

A I cannot recall any specific request for that information.

(P. 27)

Q Were you aware of any endeavor on the part of the Senate committee or the conference committee to minimize the possibility of any incumbent congressman having to run against another?

A I am unaware of what the considerations were by the members, whatever they agreed upon or disagreed upon.

Q And as far as you know, the only data on population shifts or projected population growth patterns or loss of population patterns was the comparative data of the 1960 to 1970 census?

A Well, we did make available figures. I don't recall how far back they went. Almost every member, I recall, had almanacs available. They were—which—complete—. I think, if I remember correctly, the Secretary of the Senate makes Texas almanacs available to all members and the almanacs do have, I think, population figures for, I think, back as long as the census has been taken in Texas, but I'm not sure. So they did have that information. Whether they used it

or not, I cannot say.

Q Did you make any data available generally on the ratio or ethnic composition of

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any census tracts or—

A We had no data of that sort.

Q In drawing these maps that you referred to, was it the idea to preserve the, for lack of a better term, rural districts and borrow from the more urban districts to fill these out to give them as nearly as possible the mathematical ideal number of residents?

A Again, that's a consideration of the members.

Q You have no knowledge of it?

A And I have no knowledge of what those considerations were.

Q Was an effort made, to your knowledge, to preserve county lines as much as possible?

A Again, that's a consideration.

* * *

Oral Deposition of
Carl Robin Teague

* * *

(P. 5)

CARL ROBIN TEAGUE, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. FISCHMAN:

Q Mr. Teague, state your full name, please, Sir?

A Carl Robin Teague.

Q And your address?

THE WITNESS: Do you need to spell that last last name?

THE REPORTER: T-E-A-G-U-E (spelling).

THE WITNESS: Right.

A 330 West Cheryl, C-H-E-R-Y-L (spelling), San Antonio, Bexar County.

Q You're a law student, Sir?

A Yes, sir.

Q Where, St. Mary's?

A St. Mary's.

Q How old a man are you?

A Twenty-five.

Q What year are you in?

A I'm in the first year.

(P. 6)

Q First year. Did you have occasion to be employed by any branch or agency of the State during the last session of the Legislature?

A Yes, I did.

Q What was that, Sir?

A I was a committee clerk.

Q For what committee?

A For the congressional legislative district com-

mittee.

Q Of the House?

A Of the House.

Q And that was Representative Delwin Jones of Lubbock's committee?

A Yes, it was.

Q And you served on that as what, now?

A As a committee clerk.

Q Committee clerk during the Sixty-second Legislature?

A Yes.

Q Did you also serve during the special session?

A No, I didn't.

Q Why was that?

A School started the first day of the special session. So I was actually in Austin the

(P. 7)

first day of the special session, but I had severed my relationship with them and had started at St. Mary's on, I believe it was, the first of June or something like that, second of June.

Q Tell me what the nature of your duties were in your job as a clerk for that committee?

A Well, strictly a, I guess you might say, kind of secretarial duties. I was to—when they brought—when they had some sort of a working plan and they would bring it to me and I would help with the adding machine and just—in other words, they would may—maybe want a couple of counties put together or something like that and I would put the counties together and add them up.

Q What do you mean "add them up"?

A In other words, add the populations up to see what your population figures were.

Q What figures did you use to do that?

A The census count—census figures, Census Bu-

reau figures, the latest figures we had. In other words, your county-wide figures.

Q Did you attend all the committee meetings, other than the ones around the state that

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were had by the various subcommittees?

A Yes, I attended all of them except for the ones in the special, now.

Q During the regular session?

A Right, all in the regular session.

Q I take it that a redistricting bill was introduced during the first sixty calendar days of the session, is that correct?

A Yes.

Q Who introduced that bill, do you know?

A Mr. Jones introduced the bill, I believe.

Q Do you know who prepared it?

A He did.

Q Did you work with him on it?

A No.

Q Did you ever see it?

A Well, now, the—bill that he introduced, of course, was a—I forgot what you call it—but it was just a bill to run with. Of course, we worked with Senate Bill 1—not—not Senate Bill 1—but we worked with a Senate bill in—in the regular session. In other words, the House passed a bill, the Senate passed a bill

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and it went to committee and we—the House was actually working with the Senate bill. So the House bill was never—was never worked with after it—after it passed the House.

Q Well, what I'm getting at is I want to get up to the point that that bill actually passed the House?

A Yes.

Q I understand that it was just something to work

with?

A Right.

Q I guess it was a general feeling that the bill would probably be written in conference committee?

A Right.

Q Had that feeling actually been expressed by Representative Jones and some of the other committee members?

A That—that it would—that the bill would be worked out in conference committee?

Q Yeah.

A Well, they made a serious effort to write a bill on the House side, but, of course, I guess people realized that there were going to be disagreements of opinion on what the final bill

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would come out. But we—I think that they had probably hoped that—that maybe the House bill would prevail.

Q Were you present at any committee meeting where Speaker Mutscher gave any kind of address to the committee?

A No, I don't believe he ever—not that I remember. Not in person, I'll say, not in person, that he has never in person to any—at any of the committee meetings.

Q Did he ever let the committee know any of his thoughts, to your knowledge, through anyone on his staff or through any other third person?

A Not to my knowledge.

Q How many formal meetings did the committee hold, if you know?

A I would say around three or four formal meetings. Now, that's not counting the ones that you're talking about, the state-wide meetings.

Q Right.

A I'm not real sure whether those were official meetings or not.

Q Well, there was no drafting or voting

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done at those—

A No.

Q —meetings around the state, to your knowledge?

A No.

Q What was done in these three or four committee meetings that you recall?

A Well, the first meeting was an organizational meeting. The second was—I believe they introduced a bill on the second meeting. And the third meeting—

Q Did the committee vote on that bill?

A No.

Q What was, you say, "introduced," what was done?

A It was—it was introduced—well, it was introduced, of course, on the House floor and then it was assigned to the committee. And then once it came to the committee, then it was assigned to a subcommittee. And then of course, the subcommittee works on—worked o nthe bill and then they reported it. I believe the third meeting was where the subcommittee reported the bill back out to the full House.

Q And these were just more or less

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pro forma type of things, weren't they, the real work was done on a more informal basis?

A There wasn't any—I don't guess there was any work done in—no, there wasn't any work done in the committee in the official committee meetings.

Q How long did these meetings usually last?

A Oh, I would say thirty minutes to an hour, I guess. Something like that.

Q No testimony was ever taken before the whole committee, was there?

A Yes, they had—they had some testimony, I believe, once they reported out the third—well, let's see. They had hearings on the—some of the bills, because there—there was more than one congressional bill. I believe there was two or three congressional bills. And then they had hearings on those bills, so there was testimony for those bills.

* * *

(P. 14)

Q Was there ever any discussion in any committee meeting as to what criteria were to be followed in drafting the bill?

A Yes. They just talked about the one man, one vote ruling and the equa—I guess they talked several times about the, you know, the equal protection, you know, how—how—well, you know, I guess mainly they were going on the one man, one vote. In other words, that—their criteria—well, they were going on more than that. They were going on the criteria of the one man, one vote and then there were also other considerations of

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community factors, you know, trying to get counties together that were—had community interests and things like that.

Q What else?

A That's about mainly it, was the community of interests.

Q Was there any discussion about protecting the seats of the incumbent congressmen—

A No.

Q —insofar as possible?

A No, not—not anything that I ever heard.

Q How about any discussion in any of the informal

working sessions?

A Well, I—I wasn't a party to any of the informal working sessions. In other words, I—I was never involved in any of the informal things.

* * *

(P. 16)

Q Well, how was that worked out, that's what I'm trying to get at, that committee amendment?

A I suppose it was worked out, you know, with—with the—with the subcommittee members. I believe Mr. Jones was the chairman of the subcommittee, either he or Mr. Clyde Haynes. There was a House subcommittee and a congressional

(P. 17)

subcommittee and I suppose that the subcommittee men worked that out.

Q But you didn't participate in any of these—

A No.

Q —working sessions?

A No.

Q Do you know anyone that did besides Representatives Jones and Haynes?

A I don't even remember the subcommittee people now, but I suppose all of them had—I—I suppose that they all deliberated over it.

* * *

Q And it's your testimony here today that to your knowledge the desirability of protecting the seats of the incumbent congressmen was never discussed?

A Not in—in the open—not in the

(P. 13)

public committee meetings that I remember.

Q Were you ever at any meeting or gathering where it was discussed?

A Well, not at any particular gathering or, you know, an ad hoc gathering or anything. I know—I'm

sure it was discussed that—every—every House member up there, I suppose, would like to, since every one of them had a constituent who happened to be a congressional member, they were all hoping that their—each—each individual congressman would be protected. So it wasn't any one particular person who was—

Q What leads you to make that statement, Mr. Teague; was it conversations that you heard or was it just your—

A No, it was just—well, it was general House conversation. In other words, you have—each—each individual House member has as his con—has as his constituent a congressman. And so every—all of your congressmen, I suppose, were communicating with some of their House people and your House people would like to give their idea—each individual idea and I suppose that they were talking—talking amongst themselves.

Q Well, this is just a supposition on

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your part?

A Right. Yes.

Q You have no knowledge of this?

A No knowledge of that, whatsoever.

Q You didn't get to go to Washington, I take it?

A No.

Q Any committee clerks get to go?

A No, I don't believe. Greg Hooser, I don't believe Greg Hooser went that I remember.

Q I forgot to ask him that this morning. Can you think of any other factors that were discussed in any of the committee meetings on what had to go into the, you know, what considerations should be taken into account in drafting the bill?

A Not besides population equality. It would—was

a—in the congressional bill, population equality really was the main thing. In other words, that was a mandate set down by the prior court cases that said it had to be as equal as—as possible, I believe it was.

Q Well, did you have occasion to examine the overall bill?

A Not the final bill.

Q I'm not talking about SB 1. I'm

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talking about the one that was passed by the House in its regular session.

A You mean the population figures on it?

Q Yes, sir.

A No, I don't remember the population figures on the bill. In other words, there was several bills. In other words, the House bill passed, the Senate bill, the one they passed, and then the conference bill that came out, of course, that never did pass, but I don't remember the population figures on it.

Q Well, I'm not asking you to recall any specific numbers.

(Whereupon a short interruption took place, after which the following proceedings were had.)

MR. FISCHMAN: Would you read the last question back?

THE REPORTER: Question: "Well, I'm not asking you to recall any specific numbers."

Q (continuing by Mr. Fischman) But were you aware of the average deviation from the mathematical norm of the bill that was passed by

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the House; do you recall any percentages or anything?

A Oh, they were shooting at four hundred and sixty-six thousand five hundred and thirty and I—there was so—so many different things. I—I don't

recall any probably over—much over two and a half per cent or something like that; plus or minus two and a half per cent, I believe was what they were originally shooting at and I don't—what they finally got, I don't know.

Q If I remember correctly, Representative Jones, the chairman of the committee, indicated that the way he understood it as much as ten per cent total variation would be acceptable; was that your—

A Now, what I remember was a total of five per cent. In other words, a—a maximum of five per cent. Now, there was a lot of confusion on that among several people, but some people—some people thought that it was plus or minus five and some thought it was plus or minus two and a half. My understanding is that it was plus or minus two and a half and what the—what the—

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Q The total between the largest and the smallest—

A Right.

Q —would be five?

A What the goal was, right.

Q So, in other words, it was understood, then, that if they came within two and a half either way that they were all right?

A That's what they hoped they—they hoped that that was all right.

Q But they figured it was good enough to go on and pass the bill—

A Right.

Q —in the House, anyway?

A Right.

Q Then there never was any effort to get it even closer than that, was there?

A Sure. There was—there was effort, I suppose, to get it as perfect as possible. I mean, that—in trying

to get the counties all—you had so many different counties taking your West Texas and your North and East Texas counties and everything where you weren't really—all you were just trying to do was just group your counties together and they were trying to get as close as

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they possibly could. But they figured that if, perchance, one district happened to be, you know, more than point zero zero per cent, then it would be okay. In other words, if something happened to be up to two and a half per cent, sometimes even maybe three per cent, they—they were shooting for a figure of plus or minus two and a half, but they hoped if something happened to happen where it would be a, say, three per cent deviation or something like that, maybe, it would be—it would be okay.

Q What justifications did they use to justify the deviations that came out in the final bill that was passed in the House?

A I don't know.

Q The figures that you worked with were just the raw census figures, is that correct? I may not be using the precise term, but it was just a body count?

A Right. In other words, on most of the counties, all they were using was just the total—total county figure. And of course, when you got down to Harris County, Bexar and your larger counties and they were going down all the way down into enumeration districts, once they got

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into it.

Q Okay. But there was no consideration of voter registration or ethnic distribution of the population within the counties or anything, was there?

A Not to my knowledge, because those figures

weren't available to us at that time.

Q Did anyone ever express any consternation over the fact that they weren't available?

A No, because we—really, we had enough to work with with the—with your county-wide figures, we had enough to work with. And we had all the way down—our smallest figure, I believe, was in a—I mean, a enumeration district. And of course, we did not have the block figures. So that was the smallest thing. But we had enough—they had—

Q Well, now, if I understand you correctly, an enumeration district is not really that small a thing geographically. These are the breakdowns of the more —of the less populous rural counties, is that correct?

A Right. Your—your—your—your enumeration district roughly equates with a block

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group. And your block groups are found mostly in your urban counties and your enumeration districts in your county—in your rural counties.

Q When you say "block groups," do you mean census tracts?

A No. No, your block—you have—your smallest figure is a block. Your next to the largest figure is a block group and your block groups make up your census tracts and your census tracts make up the county as a whole.

Q That's in urban counties?

A Right.

Q And in the rural ones, they don't break it down any further than the enumeration district?

A Mostly just—mostly just enumeration districts.

Q Or at least at the time that you needed the figures—

A Right.

Q —they hadn't broken it down any further than

that?

A Right.

Q Was there any discussion or input on population changes, that is, growth or loss other

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than the known factor of the tendency of going from rural to urban?

A Other than that?

Q Yes.

A No.

Q And the only input you had on that was the comparison of the 1970 to the 1960 census?

A Right.

Q Is that right?

A Right.

Q Nobody did any really serious demographic study?

A Not to my knowledge.

Q Was there ever any consideration of matters such as, oh, Bexar County, for example, has a rather heavy transient population of military, was this ever discussed or taken into account?

A No. Your military—your military bases here—in fact, we did not have a breakdown on those so they had to be taken as a whole. Each—each base had to taken as a whole and we were given the figures on each base by the Census Bureau and that's all we had to work with on that. And as far as I know, I—I have never—I have never heard of any average dev—I mean, average figures

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on—on your transients, whether or not they raise in level or decrease during the year or not. I don't know. I think here in Bexar County they are fairly steady, I would—I would guess, because your—

Q And nobody took time to find out how many of

the military population registered to vote and things of that sort?

A Not that I know of.

Q All right. And would the same thing be true of areas like Travis County with a very heavy population nine months out of the year of the University students?

A Now, you—you're speaking of voter registration?

Q Well, I'm talking about was this factor taken into consideration in any way in drawing the districts that are wholly or partially in Bexar County or wholly or partially in Travis County?

A Not that I know of.

Q All right. And is it your testimony here today that there were, to your knowledge, no consideration of racial or ethnic composition of any congressional district?

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A No, not that I know of. Of course, as I said before, the—your Census Bureau had not had any breakdown on that. And even if—even if they had, I don't know if they would have had enough time to really take a good look at it or anything.

Q Well, irrespective of whether the information came from the Census Bureau, did you get any input from anywhere else?

A No.

Q Okay. I'm not sure I'm clear about one thing, Mr. Teague. Are you telling me that you were not privy to any committee discussions other than the formal committee meetings?

A Right.

Q And it's your testimony that there was no discussion in those formal committee meetings as to whether—or as to preservation of incumbent congress-

men?

A Not that I ever heard.

Q Were you aware of the trip that was taken to Washington by Representative Jones and several other committee members?

A Yes, I'm aware of it.

Q Were you aware of the purpose?

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A No. I suppose the purpose was to go to talk to them, to your congressmen. I mean, it wasn't—it was not a tourist trip or anything like that.

Q You were served with a subpoena and are testifying here today under that subpoena, are you not, Mr. Teague?

A Yes.

Q And you recall it was a subpoena duces tecum asking you to produce certain documents, records, papers, correspondence and so on?

A Yes.

Q Do you have anything with you?

A No, I don't.

Q Do you have any of those documents that were called for in the subpoena in your possession?

A No, I don't.

Q Have you ever?

A No, I never have. Of course, I might say that your committee minutes are official records, public records, so—

Q I understand that. And did you tell me that you were not privy to any discussions of the results of this trip to Washington?

(P. 30)

A No.

Q And it is your testimony that it was generally understood that two and a half per cent leeway either way would have been acceptable?

A I believe so.

Q Are you sure, now, Mr. Teague, that you don't have that confused with the House, the Texas Legislature, the deviation? Think very carefully and I want to pull out something here, if I can find it, and try to refresh your memory. Incidentally, you didn't prepare any press releases that were issued during this?

A No.

Q Here it is. Mr. Teague, I'm going to read a paragraph to you from the *Corpus Christi Caller*, I assume a Corpus Christi newspaper of general circulation, dated February 28th, 1971, quoting Delwin Jones, the chairman of the committee, it says that, "Jones thinks the court would tolerate a population spread of five per cent between the biggest and smallest House district and ten per cent on congressional districts"; do you recall those figures or has the newspaper stated it incorrectly?

A In saying ten per cent, you mean ten

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per cent—ten per cent plus or minus or—

Q No, ten per cent from the variation between the smallest and largest, or five per cent each way?

A In other words, you're talking about plus or minus five?

Q Yeah.

A I know at—I know at first there was some, as I said, there was some confusion as to whether it was plus or minus five or plus or minus two and a half. Now, it's my understanding that it was two—plus or minus two and a half. I know that some people that —in other words, when you—when you start talking about a ten per cent spread or a five per cent spread, some people don't know whether you're talking about a plus or minus two and a half or a plus or minus five. And it's my understanding that it was a plus or minus

two and a half, rather than a plus or minus five, when you're talking about a five per cent deviation.

Q Did you ever hear—

A I may be mistaken.

Q Did you ever hear Chairman Jones express what his understanding of it was?

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A At first, I believe, he—he understood it to be plus or minus five, I believe. Of course, he would have to speak for himself, but I believe that he thought it was a plus or minus two and a half. Some of the figures—some of the figures on the congressional—on the final thing were—were—I don't think they varied any more than plus or minus three, as far as I can remember.

Q Well, we can determine that by looking at the bill.

A Right.

Q Would you tell me when and where it was that you gained the impression that Chairman Jones had revised his thinking about the spread on congressional districts?

A Well, he had talked with the legislative council and I believe he had also talked with the Attorney General's office, if I'm not mistaken. In other words, at—at first, it was the general understanding that it was a plus or minus five or a general misunderstanding. And then after talking with several people, it turned out to be a plus or minus two and a half.

Q Tell me what the misunderstanding was

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with respect to this variation; did that mean that they could juggle the districts around within those perimeters and still felt like it would stand up in a federal court challenge?

A I'm not sure what you mean.

Q Well, in other words, was it the consensus of the committee, as far as you're aware of it, that if they got it down to within two and a half per cent either way that they were all right and within that two and a half per cent, they could make adjustments for these other factors such as protecting incumbents and compactness and contiguousness and community of interests and so on?

A Now, what—what was your question?

Q Well, I'm—

A Are you asking whether or not they considered those other factors?

Q No, I'm asking you whether it was their understanding that they could take those into consideration so long as they stayed within the two and a half per cent each way?

A Well, I'm not sure exactly what their understanding was, but that would be my understanding, that as long as your—that since it's strictly a—a test of population equality, that—that

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once they got in—within this population equality figure or the deviation figure, then, you could work with the other factors to justify it.

Q In other words, that two and a half per cent would be, you're familiar with the Latin expression, de minimis?

A Right.

Q And then they would, it was their view that it would be a de minimis type of thing that the court would say would be all right?

A Right.

Q And you gained that understanding, I guess, from discussions with the committeemen and working on the bill in your capacity as clerk?

A Well, in other words, when they would bring

counties, when they would bring a—something that they would like to work with and want me to add it up, then, I would add it up and if they said, you know, they would say, "Well, of course, we're shooting for four hundred and sixty-six thousand and if it goes above, say, four hundred and seventy thousand, something like that, then it's no good." In other words, they gave—they—when we were working with specific counties, they would give me—I knew that the figure was

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four hundred and sixty-six thousand and if it did not meet within two and a half, plus or minus two and a half per cent of that four hundred and sixty-six thousand, then those counties could not work together or that geographical area could not work together.

Q And if it did, then you would pass it along and say, "Yeah, this comes within the two and a half per cent"?

A Yeah.

Q And then to go back to my question again just a minute, it was their understanding the two and a half per cent would be such a small deviation that it wouldn't be of concern to the courts?

A That's my understanding.

* * *

Oral Deposition of

Zan Wesley Holmes

(P. 2)

ANSWERS AND DEPOSITION of ZAN WESLEY HOLMES, a witness produced on behalf of the Plaintiffs, taken in the above styled and numbered cause on the 21st day of December, A.D., 1971, before JAN STROUD, a Notary Public and Certified Shorthand Reporter in and for Dallas County, Texas, in the offices of FISCHMAN, ROSENBERG, KASMIR & PRESTON located at 601 Kirby Building, in the City of Dallas, County of Dallas and State of Texas, in accordance with the agreement hereinafter set forth.

* * *

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DIRECT EXAMINATION

BY MR. FISCHMAN:

Q You are Reverend Zan Wesley Holmes?

A Right.

* * *

(P. 6)

Q Reverend, among other committees that you served on during this last session of the Legislature, did you also serve on one that was concerned with congressional redistricting?

A Right.

Q I take it, then, that you were on the over-all House redistricting committee that was appointed by Speaker Mutscher and chaired by Representative Delwin Jones?

A Right.

Q Were you on any subcommittees, Reverend?

A No. No, I was not.

Q You weren't on any of these committees that

went around to various—

A Oh, I'm sorry. Yes, I was. I was on the subcommittee that—on legislative redistricting, yeah, that had to do with the redistricting in Harris County and Travis County and there were some other counties included there. I don't recall all of them. But this was the

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committee that traveled around the state to conduct hearings, the subcommittee, to conduct hearings. So I—I did serve as a member of that subcommittee.

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* * *

Q Oh, excuse me, Reverend. I didn't mean to—

A No, that's all right.

Q —cut off your answer. Did you have occasion to attend a meeting of the committee which was addressed by the Speaker?

A Yes. That was the original, the first meeting of the committee and I believe that I was present at that committee meeting. I believe I was. He addressed, I think, one or two committee—three committees that I was on. I believe this was one of them.

Q Can you recall, in substance, his remarks on that occasion, Reverend?

A No. I—I recall him—I recall some general remarks about the—the work of the committee, the importance of the committee's work

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and sort of outlining the—the areas of responsibility that we would have, this committee. But I can't recall any of the finer details.

Q You recall nothing said by the Speaker with reference to the factors to be considered by the committee in drafting a congressional redistricting bill?

A There were some factors stated, but I don't

recall the factors stated by the Speaker, as such. I recall some, let's see, that were stated by the chairman. I think I do.

Q Well, then let me ask you what those were, to your recollection, Sir?

A That—one was that consideration would be given to incumbent members, that is, to try as best as possible to—to—now, we're talking about congressional redistricting?

Q Yes, sir.

A No, I don't. No. No, I don't. I'm thinking about legislative.

Q You recall nothing, Reverend, being said about endeavoring to preserve the—

A Except—let me say this—except, generally, I—I—I recollect on—on—on congressional redistricting the—the—the—

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the point being made that we had an effective House delegation in—in Washington that had power and that was influential and that it was in the best interests of—of Dallas, I mean, of the state to maintain that influence and take that into consideration in—in the—in redistricting.

* * *

(P. 12)

A Yeah. Yeah, very, very, very important. Really, my preparation was simply that of—of trying to understand at that time the—of course, and keep in mind, we had House redistricting, Senate redistricting. And in all fairness, most of my attention was directed to the House redistricting and—and—and redistricting of the Senate. And as far as preparation for the congressional redistricting, it was just simply that of trying to inform myself of the present lines and how they would affect, as particularly, Dallas County and

—but beyond that, and I had a staff person that I assigned to that task of putting together this information, but apart from that, no other preparation that I can think about, specific preparation.

Q Had you had anyone to familiarize you with the criteria established by the several federal court cases that have spoken on the topic of congressional redistricting; in other words, had you studied the law at all?

A No.

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Q Or had someone study it?

A No.

Q And brief you on it?

A No. No.

Q Was any such information made available to the committee, generally, and you just didn't have time to avail yourself of it?

A I don't recall of such information being made available to the committee. Probably it was there for those who—who wanted to get it.

Q You were mindful, I take it, Reverend, of the, what has been referred to, as the one man, one vote concept?

A Yes.

Q What was your understanding of that, Reverend?

A My understanding of that was that the—the redistricting would be done in a manner that—that the—well, as far as the—here again, I keep coming back to the House—that we would have the—the single member concept, that is, where votes of individuals would be just as important, of one individual, be just as important as the vote of another individual in determining his representation.

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Q In other words, if I can maybe paraphrase and refresh your recollection a little bit, the idea of one man, one vote was to get the districts as nearly equal as possible mathematically, is that correct?

A Right, which would, in effect, have the effect of making one man's, one individual's vote equal in power, in my opinion, to—to another's.

Q Was any discussion had of what would be an acceptable deviation from the mathematically ideal district?

A Yeah. I think four, four point, four, yeah, four point deviation, four per cent deviation was what we were generally talking about at the time.

Q Was this a target that the committee—

A Yeah.

Q —was shooting at?

A Yeah.

Q And you figured if you would get within that that the bill would stand, pass muster in federal court?

A Yeah. Yeah, as best as I can recollect on—on that.

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Q Was it the consensus of the committee, Reverend, that within four per cent was good enough, that you didn't have to get them exactly equal?

A As best as I can recollect. Although from what I can recall, there was really not too much discussion of this. We—we did understand that it would be difficult to get all of the districts exactly to have the same number—number population, that there would be some, some deviation. I believe the four per cent deviation was what was stated by the chairman as being something sort of a guide to look at. I don't recall of any agreement as to—by the committee as a whole as to what—what—what would be the—what would be the ideal or what would be—

Q I take it when you refer to the chairman, you're referring to Representative—

A Delwin—

Q —Delwin Jones?

A Right. That's right.

Q Well, Reverend, I take it, that being a member of the committee, you did have a hand in drafting the congressional redistricting bill?

A I was a member of the committee. I don't feel that I had a real hand in drafting the

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bill.

Q Tell me why not, Reverend?

A Well, first of all, I don't feel that I was given the opportunity to actually participate in the detail, in a lot of the detail work which went into the drafting of the bill. I did not have the opportunity, nor was I invited to make some of the visits that I understand were made by members of the committee to consult with incumbents in Washington and in other places to discuss the redistricting, how the lines would be drawn. I did receive some correspondence from—from some of the congressmen and—but in terms of actually sitting down and getting involved and the detail decision-making, which went into the drafting of that bill, I was not a participant, nor was I offered the opportunity to participate, except that I was, it was made clear, I believe, that members of the committee could submit plans that they felt would be—would be good plans.

* * *

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A I don't know exactly why I was not invited to—to participate in—in some of the detail work that went into the drawing up of the plans, except that possibly some of my viewpoints concerning redistricting might

not have been in—in keeping with some of the other members of the committee. For example, it was known that regarding redistricting of the House that I was in favor of single member districts. I had made it known that especially in congressional districts that I favored the viewpoint of having the districts originate in the cities and then move out into the rural areas. I favored the viewpoint that I felt Dallas was entitled to approximately three, total, complete districts, and that the lines should so be drawn, that Dallas should not be chopped up, because I felt that would gerrymander, have effect of discriminating against the city and then discriminating against particular groups within

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the city.

So my—my viewpoints, I'm saying, on redistricting were known from those particular viewpoints and I don't—from—as I can recall the viewpoints of others on the committee, they were not—these were not similar. So I can only say that, perhaps, that—that had something to do with it.

Your second question was you asked me why was I not invited to participate—

Q Well, no, I think that was my first question.

A You must have—

Q My second question was: if it was not the committee as a whole that actually made, that actually did the decision-making beyond the pro forma voting of yea or nay, who actually did it?

A Well, I—from—from what I can recall, the chairman, Chairman Jones, had a major part in the drafting of the bill along with Representative Clyde Haynes, who, I believe, I don't know if he was vice-chairman or not, but it's my understanding that he—he had a large part of—of actually in a lot of the detail

work in—in—

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in the drafting of the bill. Beyond that, I don't—I don't personally know of any members of the committee who actually had a lot—lot to do about the drafting of the bill.

* * *

(P. 21)

Q What circumstantial evidence, what circumstances lead you to conclude, as you have just concluded, that it does distinctly bear the imprint of the Speaker of the House?

A Well, I guess I ought to ask you your interpretation of circumstantial evidence. About all I can say is that it's a known fact, in my opinion, that—by all the members who served in the last session of the Legislation—Legislature that committee chairmen are appointed by the Speaker of the House, all of them, and that very seldom does legislation come out of those committees unless they have the endorsement of the Speaker of the House. This is just my experience and as a—as a Legislator in the Texas House of Representatives. That given the fact that these were major pieces of legislation, some of the most major pieces of legislation that we faced, and given the fact, you know, the Speaker, himself, was—formerly served as chairman of the—was chairman of the last redistricting bill, sponsor of it, chairman of the committee prior to this one, given the fact—given the importance of this particular legislation, no important, no legislation that

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important emerged from any committee or got a chance, you know, for a run on the floor of the House unless it had the endorsement and backing of the Speaker.

Q This was just—

A That's just—
Q —standard operating procedure—
A —standard operating procedure.
And given the rules—
Q —under the rules—
A —and the methods.
Q —of the Sixty-second Legislature?
A Right. Right.

* * *

(P. 24)

Q Well, then may I understand this, Reverend: Speaker Mutscher has indicated in his testimony in this case that he appointed, I believe, twenty-one people to the committee, twenty-one members of the House, to the redistricting committee and he further indicated that he attempted to give a mix between urban and rural and tried to represent the many varied interests of the population of the state. And while he may have appointed these people, as he has indicated, that doesn't necessarily mean that they had any meaningful input into the final bill; is that in substance your testimony?

A Yes, that would be my—that would be my testimony. I would also question whether the—the—the committee, the make-up of the committee, actually was a true reflection of the over-all make-up of the House in terms of philosophy, as well as—

* * *

(P. 25)

Q As far as you know, the only people that really did anything meaningful were Chairman Jones and Representative Haynes?

A As far as I know.

Q Now, Reverend, in terms of just mechanical steps, I have gleaned from the previous testimony given in this case that the House didn't really expect

that a congressional redistricting bill was going to be written anywhere but in the conference committee; was that your understanding?

A Yes, that's my understanding, that generally—it's a general understanding that that's the way it would be done.

Q From the very outset?

A Oh, yes, from the very beginning. This was, practically on all major pieces of legislation, this was our understanding, that the conference committees would write—write this legislation.

Q Now, I understand further from the previous testimony that a working bill or something that the committee could pick up and run with was introduced by Representative Jones within the first sixty days of the session and then referred to the

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committee; is that correct?

A That's—that's correct.

Q And technically speaking, the committee functioned in holding hearings and deliberating that bill; is that correct?

A Right, technically, yeah.

Q Were any other bills introduced and referred to the committee during the regular session?

A I don't recall one on congressional redistricting, as far as I can recollect. There were attempts to amend the bill that was brought out on the floor, but—

Q These were floor amendments?

A Floor amendments. But I don't recall of any—any new—any bill, new bill, except, that was introduced to the committee.

Q What about committee amendments?

A At this time I—I cannot recall any committee amendments.

Q Well, perhaps I can refresh your memory. As I

understand it or, perhaps, I'm wrong about it, the bill that was reported out by the committee was the original bill that was introduced by Representative Jones, but it had been

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amended by striking out everything below "Be it enacted," and then the final version that the committee came up with.

A The substitute.

Q The substitute bill—

A Yes.

Q —was reported out?

A Yes, this is true. Right.

Q So this one amendment, then, encompassed all twenty-four congressional districts?

A That's true. That's true.

Q And whose brainchild was this, now?

A As far as I know, it was the brainchild of the chairman and Representative Clyde Haynes, to a lesser extent.

Q I understand one of the members of the committee was Representative Shannon from Fort Worth?

A Yes, that's true.

Q Did he have any hand in it as far as you know, Reverend?

A No, as far as I know. I would have no way of saying he had a—I would suppose that he—he—he would have a hand in it. But as far as actually seeing him at work, I wouldn't know.

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The reason why I would—I include Representative Clyde Haynes is because I happen to know that he did a lot of the detail work in figuring the sizes of the various—the population figures and so forth and so on. As a matter of fact, I recall that he had acquired a special hand calculator, you know, that he informed

me that he—he used for the purpose of working on the —on the bill. As a matter of fact, I was admiring it one day on his desk and he was telling me about it and also telling me about the long hours that he had spent in working on the redistricting bill. So I—I happened to know that he—he did a lot of the detail work on the basis of that. He was somewhat of—I don't know if he was vice-chairman of the committee, but he—he appeared to have had some major responsibility in some of the—just the detail work.

Q Now, then, Reverend, you don't know of your own knowledge what criteria, what factors the committee took into consideration in drafting the substitute bill that was reported out of the committee?

A No, I—no, I do not.

Q You don't know whether they directly

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took into account things such as maintaining the integrity of county lines, for one factor; for another factor, trying to group districts having a community of economic interests, for another factor; or whether there were factors such as the ethnic composition of particular districts or anything else?

A No. I recall some of these factors being mentioned now that you mentioned them, but I have no way of knowing that those were, actually, in fact, taken into consideration in the—in the formulation of —of the plan.

* * *

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Q Were you contacted by any incumbent congressman or a member of the staff of any incumbent congressman with regard to congressional redistricting?

A I recall receiving a letter at one time from Congressman Cabell and I recall talking with a staff member or Congressman Purcell, not—

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but this was not a formal contact, response. Other than that, I don't know.

Q What were the substance of these contacts, Reverend?

A As I recall, the—the—the letter from Congressman Cabell was just one expressing concern about congressional redistricting and expressing some satisfaction with his present district, that is, hoping that, you know, it could be maintained and—and a willingness to—to be of help, to provide information, to be of assistance to the committee in the doing of this work. I think this was somewhat of a general letter that probably all the members of the delega—of the committee got or, if not all the members, at least the two of us who were from Dallas received.

Q And Congressman Purcell?

A It seems to me, and I—I may be wrong on this, but it seems to me, I got—I got a similar type letter, basically the same ingredients, from Congressman Purcell. I—I just recall the conversation I had with a staff member, one of his staff members. And I'm sorry, I can't recall a name at this time. I just—I just saw

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him informally on some occasion and he just expressed to me his concern about the redistricting and the effect it would have upon Congretssman Purcell.

Q What in particular did he express to you, Reverend?

A I don't know at what point in time that I had this—this conversation, but—I don't know if this was after the—some of the contents of the bill had been revealed or not. But the—the bill did remove Purcell's Dallas territory and Dallas County and place it in—in another district. And—and I believe that was the concern, yes, that Purcell would have—no longer have

any—any of Dallas County in his district.

Q And he was, I take it, not—

A Not happy about that, yeah.

Q Reverend, you don't know of any factor being taken into consideration, as I gather from your previous testimony, in regard to the ethnic composition of any congressional district?

A When I—when you—when I say I don't know, you know, simply because I had no—I did not have the privilege of actually being

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there when—when the decisions were made. I don't know of any, except that I do know that in Dallas County ten predominantly black precincts were removed from Congressman Cabell's district and placed into Congressman Teague's district (indicating). Or no, I think ten of them were placed in the new—the new congressional district, Twenty-Four.

Q That would be the Twenty-fourth?

A Yeah, the Twenty-fourth.

Q The Mid-Cities District?

A Right, the new Mid-Cities District.

Q Why was that done, Reverend, if you know?

A I don't know why it was done. I think the—the net effect of it would be to, in my opinion, dilute the voting strength of—of Blacks in the—the Fifth Congressional District and also in the—in the new Twenty-fourth Congressional District. I mean, the—the net effect was to, yeah, dilute the Blacks' strength by dividing it and placing it in those two districts.

Q Well—oh, excuse me. Go ahead. I'm sorry.

A Well, and—and then taking part of

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the Oak Cliff community, which was predominantly black, and making it up with Garland—I mean, Grand Prairie and Arlington and portions of Fort Worth, it

seems to me to be very discriminatory and does not represent any common economic interests, other com— any common, other common interests, and destroy the integrity, in my opinion, of the—the black community in Dallas by displacing, dislodging those ten—ten precincts.

Q I take it, Reverend, that you have studied the effect of this piece of legislation on Dallas County in some detail from what you have just testified to?

A I have looked at some of it, yes.

Q Well, you have indicated already that Congressman Cabell wrote you and said he was pretty well satisfied with his district and, I gather, by implication, that he would just as soon be left pretty much alone?

A Yeah, I think, as I recall again, it seems to me he was saying at one point that he had, I think, the population figures. He sent information revealing that there were—his area was overpopulated, his district was overpopulated and—

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Q So he wouldn't mind getting those ten black precincts out of his district?

A Yes. He hated to lose any—any precinct that he had. He didn't refer to those precincts, as such, except those were among those that—that happened to be removed.

Q You don't know whether, since you were not privy to the actual work on the bill, you don't know whether that was by design or whether that was pursuant to trying to achieve numerical equality or what?

A That's right. I—I don't know. Like I said, all I can look at is the net effect of it and what it would have upon the—the voting strength of the black community, which would be to dilute it.

Q I think the court could almost take judicial notice of the fact that those black precincts would tend

normally to have a higher percentage of voters voting for liberal candidates than they would for the traditionally conservative Democratic candidates or a Republic candidate?

A I would think so.

Q So that the net effect of it would be, the way the bill finally came out, that

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Congressman Cabell's hold on his seat in Congress would have been strengthened by that much?

A Given the—the political make-up, yes, I—I—I should think so. I understand that in addition to the surrendering of those precincts that there were others that were picked up, so—which—and I—which means it's not just a matter of giving up precincts from a district that was already overpopulated, but as a matter of taking on others. It was total readjustment, which meant the taking on of—of other precincts instead of.

Q And then you have indicated that by shifting those precincts to the Twenty-fourth District that their voting strength would be substantially diluted by the other ethnic composition?

A I would think so. Because given the make-up of the Fifth Congressional District prior to redistricting, the—there was an increasing number of—of Blacks in that district and the voting strength was—of the black community was gaining in that particular district. And I don't think that's a—a strange fact to anybody who's close to the political scene here in Dallas. But—

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and—and by—in so removing those precincts from—from that district, definitely. I don't—I don't see how any—how the Blacks' precinct—Blacks who were removed from that precinct could near and in any way have the voting strength in—in the Twenty-fourth

District that they had in the Fifth, because there are only nineteen black precincts in the new Twenty-fourth District and only sixteen of them are in Dallas County. One in Irving. And one in Grand Prairie.

Q Reverend, you have indicated that you voted against reporting the bill out of committee as amended in the committee?

A Yes, I did.

Q And did you also vote against the conference committee bill?

A Yes, I did. And spoke against it on the floor.

Q I take it, then, that you were dissatisfied with both measures?

A Yes, I was.

Q And let me ask you this, Reverend: I would assume from your previous testimony that one of the sources of your dissatisfaction would have been the shifting of these black precincts?

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A Oh, yes, that was a basic concern—

Q I take it, then—

A —I have.

Q —you were not appeased by the creation of the, quote, "Barbara Jordan district," unquote, down in Harris County?

A No, I was not appeased by that.

Q Do you have any knowledge of how that district came about, Reverend?

A No, I really don't. I have no knowledge, whatsoever. And here again, you know, the—I just had no input. I—I wasn't—the workings of—of the committee and drawing up the—of the bill. Although I realize that was done in conference committee, but—I believe it was. This was just information not available to me, so I have no—no idea how that was done.

Q Have you studied the effect of the new bill on

Harris County?

A I have looked at—at—at—at it some as I—. The—the effect, I do know that it would create a—a district which would make it possible for a Black, in this particular instance, Barbara Jordan, or others who might be in that district to be elected. I don't know what it does

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to the rest of Harris County.

Q In other words, you haven't made any determination that it has soaked up a number of the black districts, the black precincts that would have otherwise been in other districts in Harris County?

A Other congressional districts?

Q Yes, sir.

A No. I didn't take particular note of that. I believe it's right in the center, near the center. Takes in some of the downtown district right in the heart, so I can easily see where this would be the case.

* * *

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Q How much time did you actually have to study the bill?

A Well, as I recall, the day we voted out, the day they voted out the—the bill out of committee, and I may be wrong here, I want to be sure, but as I recall, well, I know, I didn't get to see that bill until I sat down at the table to vote on it in the Speaker's committee room.

Q Did you know that the bill was coming up for a vote on that certain date?

A No. No, I didn't, because it was very difficult to get that kind of information as to when the bill would actually—when we would actually have a committee meeting and when we would actually have a bill to vote on. As I recall, the—at the time that—that we

sat down that particular day, I think we sat in the room there for a few minutes waiting on other portions of the bill to be mimeographed, some of the finishing work to be done. And then brought—it was brought in to us, either on that occasion or on the final occasion when we met, the final bill.

Q Did you exercise any efforts to keep yourself informed as to what was going on, to put it generally?

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A Yes. But my efforts were—were futile.

Q What efforts did you use, Reverend?

A Well, they were basically of—of contacting, speaking to the committee chairman, trying to get information as to where we were and to what was happening and—and most of the information was indefinite, vague and indefinite. And so really, there was, you know, there was—you didn't, you know, I had a concern, but I didn't know how to get at it. I mean, I didn't know what—where the bill was, you know, what was happening. You would have to—you have to know what—what's being worked on and in order to fit the pieces together to know how to do your homework. And so I—I didn't have anything to go on, that much to go on, that could enable me to intelligently proceed on some work of my own to provide input.

* * *

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Q You were unaware, then, that the bill reported out by the committee deviated on the average less than the final SB 1; is that true?

A Yeah, this was brought to my attention, but I was not aware of it at the time.

Q When was it brought to your attention?

A I think during the floor debate on the bill, the

final—

Q Then are you telling me that the House knew that the bill that they had already enacted and sent to the Senate during the regular session was a better bill numerically than the bill that came back from the conference committee?

A No, I—let me retract that and say that the floor debate that I refer to was that which took place on the final vote, which was the

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conference committee report.

Q Well, my question, again, Reverend, maybe I didn't make it clear—

A Yeah.

Q —was that you indicated that you heard this mentioned, the first time you became aware that the original House bill that was enacted and sent to the Senate was better numerically than SB 1 was during the floor debate on SB 1?

A No, I retract that. No, the first time I heard that was after the bill had—had—had been passed and—and discovered that there were several mistakes in the bill and the deviation and some of the figures, census figures, in the size of some of the districts.

MR. ROSENBERG: That was not during the floor debate?

THE WITNESS: No, that was not during the floor debate. Again, I don't think anybody had any time to discover this. I think this was one of the problems we were faced with. Nobody had any time to discover this during the floor debate

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or while we were in session. I think if we had been given the opportunity to work as a whole committee and—and do some of the detail work on the bill, we probably—or had been given more

opportunity to discuss and debate it, we probably would have discovered some of these things. But —but as it was, it didn't come out until, you know, after it had passed over my objection, objection—objections.

Q (continuing by Mr. Fischman) You indicated off the record awhile ago, Reverend, that there was a sort of gentleman's agreement that the Senate would take care of their redistricting and the House would take care of its redistricting, in that both chambers would work on congressional, is that correct?

A That's right. That was a gentleman's agreement that—yes.

Q Well, tell me, Reverend, about this floor debate. Was there any, first of all, was

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there a floor debate on the bill reported out of the committee during the regular session?

A I'm sure there was, but somehow, that doesn't stick out as vividly in my mind.

Q Was that debate recorded to your knowledge?

A No. No, I don't think—I don't think the proceedings of—I don't know if the proceedings of the House are recorded. I know the committee's hearings aren't—aren't recorded. This is something we—some of us have been asking for. And I—I don't quite recall the procedure in the House right now.

Q Do you recall anyone else, anyone's specific remarks during the debate on the bill that was reported out by the committee, by the House committee during the regular session?

A No. No. I can just recall the objections raised in the—in committee that met to report the bill out.

Q Would you tell me what those were, Sir?

A Well, I have already mentioned some of them. Representative Tom Bass and I were the two persons

who were vocal in our objection on

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the committee, were vocal in our objection to the bill. I don't think anybody else objected vocally. I think we were the only two who voted against—well, there was somebody else, a Republican on the committee, who voted against it, too. I've forgotten who he is. But anyhow, Representative Tom Bass was opposed to the bill on the basis of what it—and he, as he pointed out—what it did to Harris County. And I was objecting on the basis of what it was doing to Dallas County. And I think we both were concerned about the fact that the redistricting did not originate in the cities and then move out to rural areas. We felt that—that it was discriminatory—discriminating against the city, the urban interests, and that the integrity of common economic interests were being destroyed, in the cities were being destroyed.

Q Did you have reference to any specific districts in making those remarks, Reverend?

A I had reference to especially—particularly to the—the new Mid-Cities District and I had reference to the new portions of—of Dallas County that were added to the district now held by Congressman Teague and to a portion of

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Dallas County that was placed in a district—the district of Congressman Roberts, Ray Roberts. Especially, those three, because—I think that's—I—I—I objected that—on the basis that there was enough population—these districts were being—Dallas was being used to flesh out these three districts, the Twenty-fourth, Rep—Congressman Teague's district and Congressman Robert's district. And I felt that Dallas had enough population to make up a majority of a—of a majority of another congressional district

if that had not been done.

Q Well, was this done in order to maintain essentially the integrity of those two districts or to maintain the position of the incumbents? In other words, rather than—

A Yes, to flesh out, right, to flesh out their—their districts, right. And—and it's my—well, whether or not they wanted a portion of Dallas County, I imagine this is helpful when it comes to campaign funds, to have some of the economic interests of Dallas in—in your district. I can see where this would be to the advantage of congressmen. Just enough where it won't hurt you, voting power, from a voting

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power standpoint, but enough where you can hurt the district.

Q And what did Representative Bass have to say in this regard down in Harris County?

A He was saying essentially the same thing, that the district—redistricting did not start in the cities, as I pointed out.

Q Well, did you recall any specific areas that he had in mind?

A I'm sorry. At the time, right now, oh, gee—

Q Would it help you to look at a map?

A May I see a map. I saw one a moment ago here.

Q The SB 1 map, I think, is the one. That's our new—

MR. ROSENBERG: Ignore these districts, if you would.

THE WITNESS: Okay.

MR. ROSENBERG: Because it's not the plan.

Q Oh, here's the one we want right here.

A Yeah, let me have that little deal. Yeah. Oh, I recall now. Yes. I don't have to look. As best as I can recall—see if I was

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right on that—the—in—in Harris County, the districts were not even defined, that they were left open and to be—yeah, and that that was to be done in—in committee, in the committee.

MR. ROSENBERG: Conference committee?

THE WITNESS: I may be—yeah—I may be wrong on this. And that—that—check that—I would want to be checked. But as I can recall now, Harris County was the district—for example, in Dallas County, we had five, four or five congressional districts that were outlined, carved out on the map. But in the committee report, committee meeting, Harris County was just left open as one huge congressional district to be filled in later. And to me, that's—if—if—if I'm not mistaken, I'm almost certain now, and I may be wrong, but

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this—the committee—the bill was kicked out that way and that was Representative Bass very strong objection to the bill. And it was—I think we were led—made to understand—we—that this was being done to provide leverage over Houston in—in the committee, conference committee. When the bill got to conference committee, that they would then write in the—draw the lines for Harris County.

Q Well, then the bill that came out of the House during the regular session wasn't even a complete bill, unless—

A If by—by a complete bill, you mean the fact that Dallas—Harris County—and—and please check—check that. It's just on the basis of what I can recollect. Well, I see here, this is what, let's see what—

Q Well, you're looking at a map of SB 1; now,

that's the final bill enacted in the

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special session?

A This is—I may be wrong on that, but I—I—I believe that was the case.

Q Well, that one has got it that way, as a matter of fact.

A Is this it? That's Bexar County. That's Dallas, Tarrant, Where's Harris. Yeah. Yeah, that one has it thataway. I don't see a sheet or—on—here's Bexar. Here's Dallas, Tarrant. Here's Brazoria. I don't see Harris County. What is this? Oh, yeah, here's Harris, right. Yeah, that's what it does, if you notice, Houston here. See, Houston is this—Harris—see, the four hundred and—and sixty-two thousand, sixty-two—population is all just locked right in there in a big glob, but that's—that—that would make up, you know—what—what's the size of a congressional district?

Q Four sixty-six—

A Four hundred and sixty-six—

Q —five thirty.

A Now, where is all of—is this all of Harris County here?

Q Uh-huh.

A Let's see. There's one district,

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two. Oh, (indicating) I'm confused. That was the legislative House of Representatives map that was done that way, the individual, the—those districts were left. Okay. I don't see—

Q The bill, itself, defined the districts? Did the bill, itself, define the districts?

A Evidently, it did. I'm—I'm getting House of Representatives and congressional all (indicating) tied up in my mind.

Q Well, then you don't—

A So I retract all that what I said about the—

* * *

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Q You did not become aware that the House bill was better numerically than SB 1 until after the Legislature had adjourned after the special session?

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A That's right.

Q And this did not come up on the floor during the debate?

A I don't recall. It might have. I don't recall it coming up on debate.

Q Certainly, Chairman Jones would have known about it?

A I—I would—I think he would have known about it. For example, I didn't know, you know, what happened to some of the precincts in Dallas County until after the bill was passed. It was only then that we knew what was in the bill and so that kind of information just wasn't known prior to the passing of the bill.

Q You were not on the conference committee?

A No, sir.

Q Who selected, the Speaker appointed the conference committee?

A I have never been on a conference committee.

Q And you were not privy to any—

A The Speaker—

Q —debate that went on in the conference committee?

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A No. No, I was not. I believe those were open, some of them were supposedly open to the press and to the public, but even at that, a lot of the decisions are made outside the official meetings.

* * *

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Q In fact, wasn't it true that at least just a raw head count was not available to the Legislature until well along into the session?

A I—I believe—I believe you're right on that.

* * *

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Q Now, Reverend Holmes, there's one thing that I would like to mention in this connection. You mentioned that you knew very little about what was actually in this bill, the congressional redistricting bill, until just before it was to be voted upon. And I believe that Counsel probably expressed some amazement that this type of situation would go on. Isn't it true, Reverend Holmes, that with the large number of bills that the Legislature is confronted with in each session that there are many bills, and some of major importance, that the members, the individual members, of the Legislature quite frequently don't get to see until almost time to vote on them?

A I—I would agree that it is true that there are many bills that the average Legislator does not get to see until it's almost time to vote on them. But I—I would not agree

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that, given a Legislator's particular interest in a particular bill, that he cannot discover, you know, something about that bill if he wants to on—on, in general, most—most legislation.

* * *

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A Yeah. I—where I disagree, where I'm not agreeing with you is that I don't think it's because we are so overburdened with work, you know, that we don't get to see these bills. I think there are other reasons. I agree that we don't get to see them, but I don't think

it's because we're so burdened. I think it is possible for us to have time to see these major bills, but I think there's a deliberate attempt to delay bills and wait until the last minute so that we won't be informed about what's happening on them.

Q Reverend Holmes, I have got just about one last question. It's something, a statement that, a question was asked you off the record and you replied to it. Now, I believe I would like to ask you on the record.

A Okay.

Q And get your reply to it on the record. Do you feel, as the question was asked you previously, that ethnic considerations were a big factor in the drafting of this congressional bill?

A As I look back at the final bill as

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I—and as I pointed out earlier, I feel that—that, yes, they were a factor. When I look at what's happened, as I—I pointed out earlier, to some of the—to some of the black precincts, I think they were particularly chosen, it seems to me, by design to dilute the voting strength of these black precincts. Especially when you reach in and grab ten so carefully to actually get ten black precincts, not—in the huge surrounding area and put them into one district, I have to think of it as being somewhat by design and that ethnic—ethnic considerations went into being.

Q Well, now, you are referring to one particular instance. I'm talking about the bill as a whole. Do you think this was a—

A Well, I have no way of knowing. I mean, I can only look—I look at what happened in Dallas, because I live in Dallas. And I'm not challenging, you know, the—the entire bill. I'm challenging that the Dallas portion on the basis of what I see in Dallas. You know, I have no reason for saying that same thing

didn't happen in San Antonio or Houston or elsewhere. I haven't looked at the other to know.

Q Do you think this was a big factor?

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A I think given the fact that there are no black represent—representatives in Congress right now at the present time and given the fact the growing black population in the cities, for example, in Dallas, we have got enough minority groups here in Dallas to have a—to have a predominantly minority congressional district, really. I mean there could—one could be drawn where a Black would have an opportunity.

Q In other words, you could draw it up—

A Yes.

Q —in such a way that—

A It could be drawn up in such a way that—that a Black could have an opportunity, as was done in Houston. And so—and the fact that it didn't happen here, that it was no way, you know, that it was—where we did have a possible chance, and this is a key question, for example, in the Fifth Congressional District there was a growing trend in that direction where a Black had a chance to being elected, given the make-up of that district, prior to redistricting. But after redistricting, the chances were decreased in spite of the growing black population in the

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city. So I would have to think and—that ethnic considerations were a play in the make-up of this bill.

MR. BAILEY: I don't have any further questions.

MR. FISCHMAN: We have nothing.

MR. ROSENBERG: We have no further questions.

* * *

(P. 2)

Oral Deposition of

Senator J. P. Word

(P. 2)

DEPOSITION upon oral examination, of SENATOR J. P. WORD, taken on behalf of the Plaintiffs, in the above-entitled cause,

* * *

(P. 3)

SENATOR J. P. WORD, a witness of lawful age, being first duly sworn on the above cause, testified on his oath as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. ROSENBERG: Q Would you state your name for the record, please, sir?

THE WITNESS: A J. P. Word.

Q Mr. Word, what is your occupation?

A I'm an attorney and state senator.

Q Did you so serve as a state senator during the 62nd Legislature?

A I did.

Q And in the special session thereafter?

A Yes.

Q And did you during that time serve in any special capacity

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such as committee chairman of various committees?

A Yes.

Q Was one of those committees the redistricting committee?

A Congressional Legislative Judicial Districts which handled the redistricting, yes.

Q And as far as the Senate was concerned, you were the presiding committee officer of all of the redistricting, not just congressional but legislative—with the House and Senate and State, is that correct?

A Yes, that came through the Senate. Our committee handled it as it came through the Senate, yes, sir.

* * *

(P. 5)

Q Okay, sir. During the consideration of the various bills—Now I'd like to go back just to Congressional and start restricting just to the Congressional redistricting.

A All right.

(P. 6)

Q A number of trips were made around the state by I believe sub-committees of your committee to listen to the citizens' ideas and what have you?

A No, sir, the House did but the Senate did not.

Q The House committee did that only?

A But the Senate did not, right.

Q I see, sir. Did any of the members of your committee or you make a trip to Washington?

A Yes, I went to Washington.

Q In regard to Congressional redistricting?

A Yes, I sure did.

Q And while there you conferred with Congressmen—

A Members of the House Delegation, yes.

Q Prior to that trip or just at any time did individual Congressmen then elected from the State of Texas contact you in regard to what they wished, how they wanted to see the district shaped up?

A No, not in that respect. Now, I had conversations with different Congressmen, of course, about redistricting; but I never had from any of them them tell me they wanted this or they wanted that. I guess most of it really was just offers if they could help they would be glad to help in any way that they could. I have had some calls from different ones that they sure didn't

want to lose this county or sure didn't want to lose this county or wanted

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to keep this county. I don't think, being politicians, I ever had one of them tell me I sure want to get rid of this one. I don't think I had any of that, but most of my conversations with them were restricted to what they'd like to keep. They obviously had to have some counties in their district so they had preferences.

Q Okay. You talked in terms of information being supplied you by the Legislative Council?

A Yes.

Q Is that where you received your data in terms of population studies and what have you?

A I believe that it is. Now, some of that came through the Governor's office. They have got it a little bit earlier, as I recall, in some parts of the census data.

Q In other words, all the census figures?

A But the Governor's office, as I recall now, and Rex Stallings I believe is the fellow's name that gave it to us. They bought the tapes from the Census Bureau, the Governor's office did, and they then had some of it taken off those tapes and furnished some of it to us. But basically we got from the Legislative Council; and then, of course, what they have is what we use when they actually prepare a bill because they prepare the bills. After there was agreement on what it would be, why then, they put it in correct sequence.

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Q How would that work? I don't quite understand that.

A Well, for instance, if you are working in the conference committee and you get it—the only ones I have ever worked on you usually get it worked out as best you can statewide without too much regard other than for numbers in the metropolitan areas or the

counties, Dallas and Harris. In other words, you don't start trying to draw the lines inside those counties until you have it, I mean you know you have got X-number of people here. So that is three districts there or four or whatever. So you account for it that way and then try and make it all fit; and in doing that, then they go back, and this time for the first time they used census tracts rather than an actual description, the Legislative Council did, rather than actual description of a district boundary line.

Q Of the data available to the committee you had what, a raw body count by census tracts or whatever—

A Yes, we had made up, for instance, charts for the committee. I call them charts, just on legal-size paper with the numbers different on it. For each Congressional District you'd have population according to the 1960 census and—

Q Now, were these the old districts, was that what it was?

A Yes. And then you'd have the assuming district lines exactly as they are now, then what is the population and how far off that is from the 466 that you were looking for

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give or take 200. And then we in addition to that had some maps prepared, shaded maps, that showed what counties were increasing in population and what counties were not increasing in population.

Q Did you have them for which were decreasing?

A Yes.

Q And those that remained stagnant?

A Right. Those that either stayed like they were or decreased in population were not shaded. The rest of the counties that were growing in any amount were shaded. Then we further had what the percentage of growth was in each county where there was growth

or the percentage of falling below where they had fallen below what they had before.

Q Okay. And you had that for each county throughout the state?

A Yes, sir.

Q Okay. Did you have any figures on voter registration within each area?

A Well, I know they had the book by the fellow at the University. It is a green book. It had to do with registration.

Q Did the committee work with that?

A No, the committee did not.

Q How about a study of transient populations?

A I can't think of the name. I know they sent it around and

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asked all of us to buy one, and I didn't because I didn't think it was that much interest to me. But there was one in the office there.

Q Okay, sir. Did you have available to you the studies on transient populations like in Travis County where you have a heavy student population or military population, something like that?

A No, we didn't have, and frankly had we had it I don't think we probably would have used it; because as I understand, if they are here when they are counted, that is where you count them for. And the fact that there are 40,000 students here at the University of Texas that are going to go in 900 different directions does not subtract from the Travis County population in the way we approached it. We just went with the total figures.

Q How about did you have any information on ethnic makeup, race or—

A No, other than we had Senator Jordan as a member of the sub-committee, and Senator Jordan is

fairly well versed in the ethnic makeup of Texas; and so we had a member of the committee who understood ethnic—

Q Distribution?

A —distribution. But with studies or figures we didn't have any. We didn't use any. We didn't have any as far as I know. I never did see them. The Almanac used to do that.

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I don't know whether it still does or not. The Almanac used to have an ethnic breakdown in each county, but I kind of think they have dropped that now. They may still do it. Anyway, we did use the Almanac some, but we didn't use any breakdown on that part of it.

Q I would like to go back to the population trends for a second if I can. How would you use— You have got the information, you have got the shaded areas, the percentage of growth or loss throughout the state, and then you also said you would have the 1960 districts as drawn with how they stood presently populationwise. How would you use the population trends?

A Well, for myself now I speak only, and I do know I speak for other members of the Senate committee because this is what we talked about and what we were going to try and do and what we did try and do. Redistricting is always a tough, tough job for a legislature. I don't care whether it is the Texas Legislature or New York or who it is, it is tough. And so we figured if we could take this information, I mean you have to redistrict, you don't get to make that choice whether you want to or don't want to, you know you have to redistrict and you have to do it in keeping with Baker versus Carr as best you know how. All right. With that information we would try to make districts that were growing at a faster rate than the rest

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of the state as a whole, Harris County. We tried to leave them a little bit under the norm or the 466. We tried to make rural areas where population was either not growing as fast or declining in many instances, tried to leave them a little bit higher in total population in hopes that when they do this again in 1980 that if at least some part of it will continue to grow the same and it won't be quite as hard a job in 1980 as it was in 1971. So we tried. That was our purpose and that is what we were trying to do.

Q Did you do that to each district?

A We had some trouble with the one in the Valley; because when you get to Mexico and the Gulf of Mexico, you have had it. I mean, you know, that is as far as you can go, and that one I think is one where it is either right at the magic figure of 466 or a little bit under when it probably should be a little bit over because it was an area that the population did not grow in. I don't remember the number, but it is the one right down here.

Q It is 15?

A 15, right.

Q Well, 15 is down by virtually 8,000 votes too small, 7,949.

A Yeah, 1.7 per cent. Well, that is not right if Ector is in there. That number is changed or something because Ector is not in 15. That is El Paso I would imagine from that number with Ector and then El Paso is growing.

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Q Oh, El Paso is a growing area, 16?

A Yes, El Paso is.

Q It is over 11,000. This is the plan as enacted?

A Is that the final map there?

Q Conference report on SB-1, yes, sir.

A Well, this area 15, I don't know why—

Q This should have been drawn, put there?

A Yes, right here. But this one was a problem simply because you get down in here and it just—you are just boxed.

Q Okay. And 16 you also had a similar problem because it is a growing area?

A Well, you did— Now, El Paso is growing. El Paso County is but these are not really, and even as I recall—

Q "These" are indicating surrounding counties?

A Yes. I don't even remember the counties, Hudspeth, Culberson and Presidio. Culberson shows to be increasing a little on that.

Q Brewster shows to be increasing. We don't have the percentages here.

A No, and they really don't mean that much because Brewster with 7,000, if it grows 30 per cent it still won't be a lot of people. But that is what we were trying to do. Now, we did have trouble in those two areas.

Q So you were not able to apply the plus and minus growth successfully throughout the state?

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A Well, as I say, I think we did, to my satisfaction, we did as well as we could. Now, I am not trying to tell you it is on zero everywhere. It is obviously not.

Q When you talked about seeing the map of the '68 districts and then trying to flush them out or subtract from them to make them what they needed to be for the new figures, you talk about within a plus and minus. What did you accept as tolerable?

A No, we did not set ourselves any goal as to— You mean with 10 per cent deviation or something like that or five per cent or two per cent?

Q Yeah, you said something like within plus or

minus. I'd like for you to expand on it.

A What I said is I knew that in all likelihood we were not going to be able to get it zero, but we'd try and get it as close as we could. And I say this, if you will look at this one that was drawn in '71 and the one that was drawn on the last one that they are operating under now, the Congressmen are, there is much greater deviation in it than this one. We got this one a lot closer. But we didn't set any figure of two per cent or three per cent just to see where we could get to. We knew that we were going to have to be a little under in areas that were highly populated in a high accelerated type population growth and a little over in the ones that were slower if we could.

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We didn't have to do that, we just agreed that if we could do it that way, if it would work that way, it wouldn't be as big a problem. Some of the people in there in my area have been in three different Congressional Districts in the last five years, and they frankly are not wild about it. Some of them, you know, they would like to get someplace and stay.

Q Well, how did the mid-cities district happen? Mid-cities referring to the 24th, the new one, and then the Dallas area?

A You had to decide what you were going to do with that area. Again up there that is boxed by Oklahoma and by New Mexico, and once you made the decision to combine the Panhandle District and Wichita Falls there, Mr. Price and—

Q Purcell?

A —Purcell, once you made that, put them together, why then you came out with that kind of a situation in the mid-cities district.

Q Those were the only incumbents that were put head to head?

A I believe that is right, yes, that is right.

Q Was there a desire to avoid pitting incumbents as one of the factors?

A Yes, there was. There was a desire to cause as little disruption to the people in those areas as you could and still stay with trying to do what you were supposed to do

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and that is make them as nearly equal as possible.

Q The desire to keep incumbents from butting heads would necessarily affect the shaping of the districts I would think. It appears to me you have taken the old districts—I mean this is what I believe your testimony was. You took the old districts as established and then tried to fit them into the population figures needed for the new districts, either adding some or dropping some?

A Yes, we started from that premise to do as little disruption as we had to.

Q And you felt that was the way to also district as numerically equal as practicable?

A No, if I had thought that is all there was to it, we would not have had to put those two together. We could have split some people out of Dallas and Tarrant County, but we took into consideration again that the people in Harris and Bexar as best we could, did what indications we had from them that they would like done as best we could, and certainly it didn't please everybody, and I am sure we didn't hear from everybody. Thank goodness. But we did, when you wound up with that mid-cities district, you did it because again we did just put those two together because it made a more comprehensive thing out of it.

Q Mid-cities was kind of what was left after all the other districts were formed?

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A That is it. That is it in that you've just got a wad of people in Dallas and Fort Worth and Arlington and Grand Prairie in through that area there. They are going to be in some Congressional District.

Q Seantor Mauzy introduced a plan that I will call the Buerger Plan, B-u-e-r-g-e-r, which may have also been introduced as a roadmap plan, because I think a copy of the map was on a Texaco roadmap. Do you remember seeing that?

A I don't remember. We had some before the committee that went to the sub-committee on some of them.

MR. ROSENBERG: I'll make this Plaintiffs' Exhibit 1. Mark this.

(The instrument referred to was here marked Plaintiffs' Exhibit No. 1 for identification.)

THE WITNESS: That is the one that Senator Mauzy introduced?

MR. ROSENBERG: Q Yes. That plan reduces the numerical disparities down to I believe a maximum of about 800 or 900 people between largest and smallest. The problem is that it does pit six incumbents. I'd like to look at the plan when your counsel is through and maybe you can give me some idea—

THE WITNESS: A I remember Senator Mauzy submitting a plan for the metropolitan statistical area around Dallas. I don't—

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Q You don't remember this plan?

A I don't remember the plan, but I am sure he did submit it.

Q Well then, we won't be able to discuss it too well if you don't remember it.

A Well, I don't remember it. I must have looked at at least a thousand different maps. So I am not going to say that he didn't submit it, I am sure he did.

Yeah, this one obviously starts in the Dallas-Tarrant County area and then goes from there.

Q They start in the urban areas and move out as opposed to the rural and moving in?

A. Yes, yes. It reaches out and gets the rural county in order to make up an urban district in both Dallas and Harris and—

Q And SB-1 really does the opposite?

A Well, I imagine you'll get an argument out of Denton about that; but Denton is going to think they are in with Dallas in spite of all you can say to them. But I would say this: There was some of both of it in Senate Bill One.

Q As I understand, we can go back to the first session, the regular session, the House passed a bill and sent it to the Senate. What happened to that bill with the Senate?

A We substituted a bill for it in the Senate as I recall and then went to the conference committee with it.

Q Okay, and the bill that later became known as SB-1 was the

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bill sent to the conference committee? Was it reintroduced in the special session?

A I don't remember whether— I reintroduced it, but I don't remember whether I reintroduced exactly what I had before or— We were almost in agreement on a bill at the expiration of the session.

Q Of the regular session?

A Yes. In fact, as I recall, I believe the House maybe concurred in it in the conference committee report. Maybe. I believe they did, but we couldn't get up in the Senate with it; and if you had gotten up with it, you would not have had enough time to concur in it because the Senate is not going to concur in a redis-

tricting bill in three hours. It just won't happen. So the time passed. But I just do not remember whether I took that same bill or the conference committee report. I kind of think I just took the conference committee report and introduced it, but I sure could be wrong about that because we were looking at too many. We were also working on Senatorial at the same time, and we were in the same kind of rigamorole with that trying to get a bill that we could get enough votes to pass. So it has been too long ago. I don't remember what happened yesterday well, let alone that long ago.

Q Okay, sir. The House Bill was sent to the Senate?

A Yes.

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Q Were you aware that it had less disparities in terms of numeric deviations than the bill passed by the Senate and sent to the conference committee?

A I am aware of it now. I don't know that I was at the time. I have looked at the chart there that shows the disparity.

Q Are you familiar enough with the districts to recall any of the changes that were made in the 1960 district of Senator Cabell and the new district that he will be running in? I believe it is five.

A No. Now, that is one that was hammered out right up there in the conference committee. The lines of it and everything else.

Q That was at the very end of the special session?

A Yeah, right. See, what I told you a while ago really adapts that. We didn't try and put the lines in Dallas. Once we arrived at how many people were there and how many members of Congress they were entitled to, we passed then the question of how you split those people up and talked more with Senator

Mauzy, Senator McKool and Senator Harris about that sort of thing in Dallas County, different members of the committee did and did the same thing in Harris County and Bexar County on the premise that those people there might have some idea about what the people might be interested in in Dallas, Harris and Bexar County

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more so than me from Bosque County, and that is the premise that we worked on.

Q Let me see if I can get it straight. What happened with it went to the conference committee during the special session, whether it was just sent in one big block and said draw three districts?

A No, I don't think so. I think by then we had had enough. At that stage we couldn't have passed one in the Senate. I know we didn't pass a bill in the Senate that no member of Dallas or Tarrant would have voted for unless there were some lines in it so there were some lines in there. But what I am saying is that when we were working on them initially, on a map for instance, just setting down with a piece of acetate drawing a map, why, you just put three districts in Dallas and then go on. You didn't go get the information that you had to have in order to divide the county into three districts, and we came back later then to all of those areas. But we would have had them in the bill when it passed, yes, sir.

Q So could I sum up and say really the rural areas were drawn first, and then the fights about the urban areas, how you are going to divide up those three or four districts were left alone? You already knew the perimeters of what those three or four districts would be?

A Well, except— Let me have that map. Let me look at this

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one right here just a minute. If you start right here in Dallas County, and I don't remember the population of Dallas County—

Q I am afraid I don't either.

A —but they were not entitled— they had more than enough for three as I recall and not quite enough for four, and that is where the mid-cities in Tarrant County had more than enough for one and not enough for two. So you come in once into this area here, and we did almost the same thing Senator Mauzy did here except that we left the lower portion of Tarrant and the lower portion of this in the district that it is in now, number six. Then you added Denton County up here and that gave you enough for the— to take care of the extra Congressmen, but it is wrong to say that you just say no matter what you'd just start there because you can start right there and we did in many instances right there but—

Q Where is right there, Senator?

A From Dallas or Harris County, but even then you start with how many Congressmen are they entitled to on the basis of their population and then what do you have to add to them to bring it out. So it is not right to say that— As I recall, Dallas County had a fairly substantial population of over three, and that then is what caused this; and, of course, you know that doesn't mean a doggone thing.

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Q The way it is drawn on this map of SB-1?

A Right.

Q I understand, Senator.

A And here now, this gives to Harris County four Congressmen, and you may figure it any way you like, you know. It takes Fort Bend and Brazoria and puts it in with Harris County in order to entitle them un-

der a strict numerical plan to four Congressmen.

Q All right, sir. You are looking at a rough map of SB-1?

A Right.

Q When you had this completed in the conference committee, was it at that time did you take what you had in terms of the district and then recalculate at the end how many were in each district? Once you had drawn these lines—

A Oh, no, no. If I understand what you are saying, we take a big map like that and put a piece of acetate, and then you just start; and you can—we have started in every place. We have started there and there and there and, you know, I guess we at least tried a hundred different maps, and whichever way you start, you were going to 466,000, and so that is— you didn't just run a line out there and then add up to see how many you had if that is what you asked me. I think that—

Q What I am saying is when the conference committee, you were on the conference committee?

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A Right.

Q When the conference committee finally resolved that they were going to bring out of conference and submit to the floor of the two bodies, did you at that time ascertain, you know, what exact numerical body counts were in each one of those? You knew you were going to have some variances?

A Oh, yes. You mean did we verify our figures according to our map?

Q Yes.

A Yes, sir. Yes, sir. And almost always you find a mistake. We were working on one one time, and we finally got— I wish we had saved it because we finally got it down to where it was just right on the money with, this has been four or five years ago or six, but

it was right on the money; and when we got it, everybody looked at it at 3:00 o'clock in the morning, the happiest bunch you ever saw, finally going to get through. We totaled it up and we had 24 districts instead of 23. That is just one of those things. You just looked at lines until it just didn't work.

Q Okay. So after we had the lines established then there was another count made to find out exactly what was in each one because you knew you were going to have some variances. At that time did you then try and go back to see if you could readjust—

A Oh, yes. All this was grease pencil work; and then, of

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course, you were working with census tracts in the cities, and if there is a census tract over here of 2,306 and another one right beside it of 5,000 and you needed 5,000 instead of 2,306, we made the changes. Yes, there were changes made like that all over all the time, constantly, and probably even at the last minute, you know; but all these lines were grease pencil lines, you know, and if you had to take another count somewhere else, why, it had to go.

Lampasas. I represent Lampasas in the Senate, and I went up there and met with different groups of people and they asked for one thing and one thing only. They said put us in this district or this district or this district.

Q Pointing to 17, 21 and 10?

A Well, it would have been Omar Burleson who is now the Congressman, and said leave us with Mr. Burleson or put us back with Mr. Fisher, we used to be with Mr. Fisher or put us with Mr. Pickle, and we have got something in common with all those people there and that will be fine. They said that is all we have ever asked of you since you have represented us.

And I couldn't do it. It just wouldn't fit there. It is now in with this one, which is the one they didn't want to be, but it took it in order to work it all out; and Lord knows I would have lot rather put it where

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they wanted it to go.

Q Okay.

A But there were some changes made and always were, you know, right up to the end.

Q Were there some of the members of the House or Senate that were, say, trying to give you some input or were concerned about drawing districts for themselves that they wished to run in?

A Well, we started out with some of that but we didn't wind up with very much of it because of what I said initially, and that is, that we decided that we'd do it with as little disruption as possible to the existing districts. Once we made that decision a lot of that kind of went out the window.

Q Wasn't there some controversy in the conference committee between Wilson and Haynes?

A Yes, sir, there was much controversy. And at first you asked me about that map awhile ago, the first map I set over there was smaller deviation.

Q I don't have that map, sir.

A Well, when you get it, you will notice in East Texas it just makes a backward C. What it did, it had to go all the way around that way (indicating) in order to get Orange County in a district here without getting Angelina County into it where Senator Wilson wants to run. So we didn't

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start out to fix it where Senator Wilson could get elected to Congress or Mr. Haynes could get elected to Congress, but did not take into consideration that one wanted the other one left out. We just put everything

in there and let it go. I don't know what will happen whether they will run or won't run. I guess a lot of that depends on the trials taking place right now on what they will do.

I am not telling you that people everywhere didn't press upon us at different times, you know, how they'd like for this to be or how they'd like for that to be. Senator Kennard visited with us several times, Senator Mauzy, Senator McKool, Senator Watson, Senator Wilson, Senator Bernal, Senator Blanchard out in West Texas and Senator Christie was very interested in the El Paso area. Senator Patman was very interested in it.

Q That is Congressman Patman's son?

A Yes.

Q A lot of the Congressmen, of course, had a vested interest in seeing how these—well, let's say an interest in seeing how these districts were drawn?

A Yes.

Q What did you find the committee's purpose was in visiting Washington?

A About all that trip accomplished as far as I personally was concerned, it reassured the Congressmen that while they

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were up there doing their job we weren't going to be running around down here trying to just kill them for the practice, you know, that we weren't going to do what you said a moment ago. We weren't going to set some fellow up in the Legislature to run against any incumbent Congressman. We were going to start on the premise that the people of Texas would like to have some continuity in the people that represents them. If that were not so, they wouldn't have elected these people in the first place, and that we would not do any more—we wouldn't tear up a district just to be tearing

up a district no matter whose it was or what his political philosophy was. I am a conservative by nature, but I have got an idea that if you ask Bob Eckhardt, he will tell you that I didn't tear his district up just because he and I don't agree politically on many things; and I don't think the Legislature did. I don't think the Legislature has got any philosophical grounds particularly on Congressional redistricting.

Q It is kind of like continuity is an asset as is their seniority?

A As long as they have that system, as long as they have the seniority system, I think it is an asset. I don't think it hurts Texas that Wright Patman is chairman of the banking committee. I don't think it hurts Texas that Mr. Teague is chairman of veterans affairs and vice-chairman of space

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and aeronautics. And I don't think it hurts that Mr. Fisher is armed forces or that Mr. Burleson is on ways and means, and there are a lot of others that I can't remember. But if you can give them a district that is populationwise all right and still have that, it looks like to me you have got the best of two worlds.

Q Of course, there is the question always of conflict, do you design just for the numbers or keep in the back of your mind all the time we have got Congressmen to protect?

A Right. Well, I don't think the Legislature ever decided to protect a Congressman. They just wanted to assure the Congressmen they were not going to go out of their way to harm them. You may be just saying it a different way, I don't know. But I imagine you can imagine there were some members of Congress that figured when I got appointed chairman of the thing that they didn't have much of a chance of surviving a session down here and staying up there and doing their

job, and what I really wanted to do on the trip was to assure them that I didn't take it upon myself to decide who ought to serve in Congress necessarily and who ought not to, that as far as I was concerned they had all been elected and just as entitled to stay there as I was if I keep getting elected.

Q Senator Jordan was rather interested in one of the new districts in Houston or the drawing of a district in

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Houston. Did she give some input to you or the committee on—

A We visited with her. We visited with Senator Brooks, we visited with Senator Wallace, we visited with Senator Grover. Now, as I recall, she was a member of the sub-committee and as such worked on the whole thing; but she did not just work on Harris County, and she did not just work on something she was interested in, she worked on the whole thing. I think it is true, I know it is true she wants to be in Congress, wanted to be then and wants to be in now and I guess is going to run. I notice from the paper. But she doesn't have a district that is tailor-made for her any more than—

Q Her district did seem to pull together about all the black and brown in the area of Houston in that central city district in Harris County.

A Well, I suspect that if we had split the blacks up and given a few here and a few there, you would have really been hollering at us about that.

Q Was there some hollering about that in the Dallas area with the blacks being split up?

A Yes, that is right.

Q Congressman Cabell received some new districts and had 10 black precincts removed or 10 alleged black precincts removed from his district.

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A I don't know where that was. Senator McKool, although he was not on the conference committee, met with us at the conference committee stage and stayed with us all the time, and he had something to do with moving different ones around different places in Dallas.

Q Okay. What do you recall about the final debate of the bill on its acceptance in the Senate, proponents and condemners?

A I don't really remember. There was very little debate when the conference committee report was finally adopted. I was recognized and made a motion to adopt the conference committee report. Senator Kennard I believe spoke against it. Senator Mauzy voted against it I know. I don't know whether or not he spoke against it. I'm sure that—

Q Do you remember what some of Senator Kennard's objections were? Has he stated them before?

A No, I don't. I think that is on tape over there. If you need that, you might get that.

Q It was recorded?

A We have had a deal put in over there now. Whether it was on or not I can't tell you; but when they put in the new PA system in the Senate Chamber, some of the deals they can record on tape in the back there.

Q So you don't know whether these were recorded or not?

A I don't have any way. I was on the floor, but I don't even

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know who is responsible for turning on the machine or who decides what goes on and what doesn't, but Mr. Schnebel, Secretary of the Senate could tell you.

Q Do they ever transcribe any of these floor de-

bates off the tapes?

A I have never seen it.

Q To your knowledge?

A It's never been done before this year that it has even been recorded. This is the first session we have had microphones in the Senate.

Q This last special session?

A No, the last regular session and then the special session, too. So to my knowledge the only thing that has ever been recorded to my knowledge heretofore before that was committee meetings and that sort of thing. Sometimes they recorded those. But floor debate and that sort of thing as far as I know has never been recorded, but it was some of the time during the regular session in the special session this last time because they had the equipment to do it with.

Q Okay. Now, in the committee work and probably in the conference committee work you must have known that if you were a certain per cent off you'd have to redo it?

A No, the way I read the cases, if we are not mathematically exact and can't justify any deviation from exactness, it is

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not going to stand up. I don't know whether it will stand up or not. Our goal was mathematically exactness. Now, we didn't make it because I have still got —if I am handling the bill, I've got to get the votes to pass the thing somehow somewhere, and while I recognize that courts have just said that is not a part of it, it is a part of it in that if you don't pass it, you are where we were with this other and it goes to the board except that doesn't affect Congressional the way I read it it just has to do with the Legislature. Sometimes somewhere you finally have to pass one; and as I say, I hope, I hope I am around to see although I know I

won't be a member of the Legislature, I hope I am around to see in 1980 if the growth pattern did make any significant changes, and I don't see where they are.

MR. ROSENBERG: I think that is all, Senator.

CROSS EXAMINATION

QUESTIONS BY MR. QUICK: Q Senator Word, I have a few questions to ask you. Mr. Rosenberg brought up the question of House Bill No. 782. I believe that designation was given in the regular session, is that correct?

THE WITNESS: A It would have been in the regular session I know. I don't remember what the number was, but we only had the one bill in the special

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session so—

Q Well, in other words, the House committee substitute for Senate Bill One in the special session had a 2.5 deviation, is that correct?

A I don't frankly remember, but let's see what this is. Regular session House Bill 782, and this is where we substituted. The reason it is so big is because it was just a bill I introduced with one change somewhere so it would be a change, but it is existing—

Q Which bill are you talking about now?

A It is our Senate amendments to House Bill No. 782 where it shows 19.04 deviation. There wasn't anything except a vehicle to get the conference. In the time I have been in the Legislature, and I think that encompasses most of the time that there has been any redistricting going on, redistricting bills is a Congressional bill written in the conference committee, and you have to just finally get down and hammer it out and get an agreement out of both houses.

Q Now, when you introduced the first bill in the special session, what was its designation?

A Just simply a one.

Q And what was the deviation shown on that bill?

A 5.83.

Q And what did the House do with that particular bill?

A Well, the House just substituted their bill, of course,

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that they had had previously and we go back to conference.

Q That was the original House Bill 782 in the House?

A I don't know. I suspect that it was. It looks like it was according to this. 2.5 here and 2.5 here and—I feel sure that is what they did on the same premise, you are going back to conference committee, and the sooner you get there you can get around to getting it done.

Q So the conference committee in the special session had before it a bill with 2.5 deviation as the maximum and yet came out with a bill which had a deviation of 4.1. Could you tell me what the reason for that was?

A Well, I can show you here like on 13 and 16, districts 13 and 16. Now, 13 as I recall is Mr. Purcell and 16 is what under the bill? Here it is, this is it. 13, that is Mr. Purcell and them combined with Mr. Price. That is in an area where the population is not growing at the rate of the rest of the state and not as fast as is this over here, same thing, and then the 1.4—

MR. ROSENBERG: This over here was 16?

THE WITNESS: Yes. Let's see what this shows 16 on here. 16 and 13 are the ones that are high 2.4 or over, plus, and 15 is 1.7 under, and 15 is this one down here where it was just—this one really, I don't think you'll have any trouble seeing it because if you go—

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MR. ROSENBERG: That is 15?

THE WITNESS: Right. You are 1.7 under in 15 at 458,000.

MR. QUICK: Q Now, you are referring to what the result was in the final bill, is that correct?

THE WITNESS: A In the final bill, right where it is 1.7 below here. It needs seven nine forty-nine. 14 is 467. So if you take that many away from this one and give it to this one, then it makes this one short.

MR. ROSENBERG. Q But you could take 1,300 out?

THE WITNESS: A Oh, yes, yes.

MR. ROSENBERG: I am sorry, I am questioning out of turn, Senator.

THE WITNESS: That is all right. If you go according to— If you don't have any regard at all for splitting the county lines, then you can do what you say. You can take any number of people out of here and increase a few out of here. You can get it on exactness if nobody in Corpus Christi ever finds out that you ever put them down here in this district when they were in this district where they have always been. But it is that close, 1.7. I don't know whether it will stand or not, and that is I presume why we are here.

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MR. QUICK: Q Well, I gather then that what created some of the problem between the bill that had a 2.5 deviation, which I understand came out of the House, and the bill that was finally enacted by the conference committee was the result of the population scarcity in North Texas, is that correct?

THE WITNESS: A Well, in the Panhandle and in West Texas, you can almost draw a line from right here down this way (indicating), if you are drawing an imaginary line and it changes.

Q Senator, would you describe what line you are talking about, from where to where?

A Well, start up here in Childress or Hardeman, right up there in the corner on the Red River at the Panhandle and then just draw a line generally south and stay west of San Antonio and come back out this way (indicating). This area out in here is not growing like this area is over here (indicating).

MR. ROSENBERG: The area west of the line is not growing as the area east of the line?

THE WITNESS: That is right, and that is fairly obvious if the districts are the same population or pretty close to it.

MR. QUICK: Q What kind of problems does that give you, that scarcity of population out in West

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Texas, what does it give you?

THE WITNESS: A Well, I don't know what you call a map drawer, what, a demographer or something like that, but anyway when you have them all right here, you have a tremendous population center here (indicating).

MR. ROSENBERG: That is 24?

THE WITNESS: No, that is in the Fort Worth-Dallas metropolitan area. Then you have in the Lubbock area another large group of people. You have in the Amarillo area in the two counties, Potter and Randall, a fairly large group of people, and then you have in El Paso a large group of people that is surrounded by a very, very small amount of population, and then in San Antonio, of course, you have a large group of people, and then the whole Gulf Coast area has, Harris County and Galveston although Jefferson and Port Arthur and over in that area lost some population from '70 to '60.

MR. QUICK: Q What I am trying to get at, and

I am not sure I have gotten it yet, is what was there about the 2.5 deviation bill, which made it unacceptable to the conference committee? Unacceptable to the extent that you came out finally with a 4.1 bill?

THE WITNESS: A Oh, probably this East Texas area over here had as much to do with it. That

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bill again had this deal in here, you know.

Q What are you referring to?

A The backwards sea where you had Orange County in here and it went all the way up to Henderson and around this way, and then here in Angelina County right here, left it, you see and came around it like this (indicating). That was one of the problems.

Q What was unacceptable about the backwards sea?

A Well, it was unacceptable in that the Senate members thought it was just a way of letting a House member run for Congress unopposed—or not unopposed but without being in a district with an incumbent, not unopposed. I am sure he didn't ever hope for that.

Q But in other words—

A It was obvious to me anyway that that is where it started and that was the premise it was drawn on, and then I can't tell you, I mean I can't remember offhand, but there would be a county or two here or there that they had to change in order to do that over there that wouldn't satisfy me in the area I am familiar with. It wouldn't satisfy Senator Mauzy in the area he is familiar with and the others. So we didn't draw it on that basis.

Q So in other words, in order to change one district in deep East Texas around Angelina County, this resulted in changes over the whole state, is that correct?

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A Yes, sir. Any time in any of these that you move, wherever you start, it creates problems at any end you go to. Now, I know Senator Mauzy and Senator McKool submitted us a plan one time that just did this little deal here, you know (indicating).

Q What little deal?

A Dallas and Tarrant and a few of the surrounding counties around there, and, you know, I could do that. This is my area of competence if I have any is in my home county and around in that area there. It is very simple for me to draw a Congressional district that I like, that the Congressman likes, that the people in that area like and that most people will be satisfied with now; but, you know, you can't just quit there. You don't get to pass them one at a time, you have to pass all of them together. So you can't do that. That 11th Congressional District doesn't satisfy everybody in that Congressional district, I guarantee you.

Q What were the chances of passing that 2.5 bill?

A Oh, well, we had no chance of passing it. We couldn't even get the conference committee to sign it. They just weren't going to do it on that basis. There were many newspaper stories written about the backward sea or whatever you call it, crawfish or something, I don't recall it now how it was done, but it obviously started over in this

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area over here (indicating), and we wouldn't go with that.

Q How much communication did you get from people around the state in the way of indicating that they wanted to stay in various districts or get into various districts?

A By pieces of mail. I can't tell you. I have over in my office I have in the files what I received; and then, of course, I did have many telephone calls. But I

don't, frankly don't count it. When I go to paying attention to that kind of thing, why go getting it both ways on the thing? When I get a hundred letters from Brown County saying they're pleased with Mr. Burleson as their Congressman, well, I take it they are if I don't have any that say they want to get rid of him. Or McLennan County or whatever. But to give you numbers, I can't give you numbers. But I had enough to make me believe that the people of Mr. Eckhardt's district are fairly well satisfied with Mr. Eckhardt. If not, the people in that district ought to get rid of him and not me or keep him or whatever they do; but it is not my place to make that decision as a member or the Legislature or as chairman of this committee.

Q What was the overriding consideration that your committee gave, or rather the conference committee gave, to coming up with an acceptable bill?

A I think really the basic thing that everybody finally pretty well agreed on was that we would make these districts

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as near as we could possibly make them and pass it, to zero deviation, and that we would attempt, where we deviated, we would attempt to make the areas that were not growing as fast a little bit over where as they fell in population they come into the norm, and the ones that were growing fast, as they grew, would grow into the norm. And I still think if you will go through at least 22 of them, you will find that is pretty well where it works out, but we did, as I say, hit a problem with number 15 and number 16, but that is what we basically decided on.

MR. QUICK: Thank you, Senator.

RE-DIRECT EXAMINATION

QUESTIONS BY MR. ROSENBERG: Q Okay. You were referring to some figures to refresh your

memory.

THE WITNESS: A They are figures that the Attorney General's Office has compiled.

Q Right. And they do comply with your recollection of the breakdown of the districts? You have been using them to testify?

A I think so. I am sure that they just took the numbers off of the districts. I'd almost be willing to bet there is a mistake in it somewhere when you put that many numbers together. That is what happened to us all the time, but it looks like to me it is about—I think it pretty well shows what we did. They introduced a bill in the House.

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I substituted in the Senate a bill that I introduced, and I believe I explained to the committee that this was a bill that made no particular changes, that we were going to hold some hearings, the sub-committee was, that we were going to go to work on these things, and that we'd go with—we knew that this was not going to be the final form of the bill and no intention of it being the final form of the bill. We were going to the conference committee, and we'd iron out the thing in the conference committee stage.

Q All right. You have also looked at a map of shaded areas red and green that was a map that shows growth or loss of population over the 10-year period, 1960 and 1970 census.

A Now, that was also prepared by—

Q The Attorney General's staff?

A He colored it.

MR. QUICK: Off the record just a minute.

(At this time there was a brief discussion off the record.)

MR. ROSENBERG: Q Going back to the figures between the 2.5 bill and the 4.1 bill as referred to by

the Attorney General's Office, I'd ask you to look at 13 and 16 on the map. 16 being here and 13 being here..

THE WITNESS: A Right.

Q Both of which—I believe 16 is a gainer, is it not, in population, the El Paso district?

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A You had something here a minute ago that shows it. Yeah. See, he was down this much, five per-cent under, and then in '70 he is still 32,000 or seven per cent under.

Q Right. What I am saying, though, is 16 has gained population in 10 years from 394,000 to—it is about 50,000 more.

A I think it is true—I know it was true in Sena-torial districts that no Senatorial district lost popula-tion from '60. Now, I am not sure about this.

Q This is Congressional districts. I'm talking about in particular number 16.

A The point you are making I think is that it did increase in population, and it did but not as much as the rest of the state. That is what I was getting at.

Q All right, fine.

MR. QUICK: Let me interrupt here for just a mo-ment if I may. The figures shown on this are drops or percentage deviations from a numerical average based upon the total state population. So even though district 16 is shown on this chart here as having increased from 394,000 to 434,000 some odd, it is still under by seven per cent from the numerical average.

THE WITNESS: It was still further behind.

MR. ROSENBERG: Q I understand, but in

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absolute numbers that district is a gainer, it is not one of our loss districts.

THE WITNESS: A No, I don't think there are any loss districts.

Q In comparing the 2.5 to 4.1 we see that 16 under the 2.5 bill had 364,000, which was below the numerical equivalent by 2,392. The 4.1 bill was 477,614 or 11,000 over the equivalent.

A Right.

Q So it is in an area that is gaining population?

A But not as fast as the rest of the state.

Q You say there are no districts that lost population?

A There is one. Let me see. These four, five.

Q So there were five districts that actually lost population?

A Five districts that actually in the counties that were in the district put in there based on the '60 census, those same counties if you had left them alone would have actually lost population and that included both the De La Garza district down there we spoke about. That included the Price district up in the Panhandle and—

Q Okay. Well, the 13th district and the 16th district are the two largest districts numerically?

A Yes.

Q The 13th is the largest with 11,326; and the 16th is next

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with 11,084, only 200 and some odd difference.

A The 13th district took in what was the 16th, which was White—not White, I am sorry, Price, which was one of the big losers you see in population of 17 per cent, and that is one reason, one of the reasons we went that way.

Q I am just really looking at the population trends, though.

A Right.

Q In applying those trends to the differences between the 2.5 and 4.1 bill, the 16th—

A You have some trouble with El Paso.

Q Have a lot of trouble. It is the second biggest district in an area that is losing population.

A That is the way it should be.

Q In an area that is gaining population.

A But it is not gaining like the rest of the state is.

Q Not as fast but applying the trend—

A It was also one that was under five per cent, one of the big ones under.

Q But the first time in the 2.5 bill it was smaller in population.

A Yes.

Q So it would have fit the population trend formula?

A I can single you out any district out of any bill and say that that district is a better district than the one you have in this bill.

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Q Well, I am trying to see how systematically the population trends were applied and whether applied to each one.

A I think I stated in my testimony that we were not able in every instance to do it, but that was our purpose, that is what we were striving for, and we didn't quite make it in an instance or two.

Q Okay. 13 is a population gainer or loser? It is a strong gainer?

A No. You see, 13, it is not the same. You can't look at this and come up with it because you've got to count it with 18, you see, because—

Q Let's just look at the map.

A Because they are the two that were combined, see, 18 and 13, districts that were combined. But, you see, you see Denton—with the mid-cities district, that is the high growth area in that county. Back west there are no high growth areas. You see, Price district

here was under—

Q We don't have any figures— What we are saying is we don't have any figures today of what those same counties were in '60?

A Yes, sir.

Q Of 13 as it is drawn today?

A As it is drawn today? Yes, that is what this is.

Q But we don't have the '60 figures?

A For the 13—

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Q Take any district. What I am saying is we are taking the 13th district as we have it drawn by SB-1.

A Right.

Q And enacted. We don't have the 1960 census figures for the 13th as it presently is. We have what the 13th was in '60—

A No, I have what it presently is. Here is the 13th, and this is the figure as it presently is. It is 505,000. It is way over.

Q Okay, sir.

A But that includes Denton County, you see, the way it presently is. See your map there?

Q Right.

A Now, that is the reason when you take Denton County out, you see, and it goes into the mid-cities district, you take out the big growth county in that district. But this figure here—

Q This does not reflect Denton County?

A Yes, it does.

Q So that is not the figure for the 13th as it is drawn?

A Yes, it is.

Q As it is drawn?

A Now, wait a minute. As it is drawn is right here. The 13th as it is drawn is right here, but you said as it is.

Q Okay. As it is drawn—

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A We are missing one another.

Q I think we are missing each other.

A Yes.

Q The 13th as it is drawn today has 477,856 people.

A To go into effect in '73.

Q Yes.

A Yeah, that is right, that is it.

Q All right. Now, this same area represented by the 1971 bill, we don't have the figures of what that area encompassed in 1960?

A No. You mean the numbers of people in it?

Q Yes.

A You don't have it because they were combined. It would be a simple matter to get it to you but—

Q It would have to be calculated, we don't have those figures now?

A No, no. We made no attempt once we arrived at a new district based on '70 figures, then we didn't pay any attention to '60 figures, and I think that is what you are asking me is what would the 13th the way it is drawn including the Panhandle, have been in 1960, and I don't have the figures for that. I could get you figures for it very easily.

Q Isn't that the only valid way to compare population growths for the new districts, to see whether it is in reality a

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growth area or a loss area; because if you are taking a big growth county out of what used to be in 13 like Denton County, which is a big growth area, take it out and—

A Maybe I misled you somewhere. I also have over there the growth pattern of each county. I have that

over in the office that is not reflected here that, of course, we checked against that. That is what you are saying, I think.

Q That is what I was trying to say.

A Yeah, I do have that. I do have each county—Yes, I have each county in the State of Texas and what its percentage of growth was.

Q From '60 to '70?

A Right. Or was not if it lost.

Q Right. Do you have the numerical values for them too in absolute numbers or do you just have percentages?

A Senator Patman had that all worked out on what you are talking about.

Q I don't mean particularly the 13th, sir.

A Well, I mean on all of them. He had every county and gave it an arbitrary figure so he could put it all on a computer, but I do have percentage differences, yes, between the years and I can furnish them.

Q But you didn't have the number differences for each county between the years?

A Oh, yeah.

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Q You did have that too?

A Yeah.

Q Okay.

A Every county in the state we had what it was in '60, what it was in '70 and what that difference is.

Q In terms of percentage?

A Right.

Q Thank you, sir.

A Give or take.

Q Would you append that to the deposition?

A Yes, I sure would.

MR. ROSENBERG: I think we finally got at least where I wanted to be. I am sorry it took so long. I ap-

preciate your time. I pass the witness again.

THE WITNESS: Thank you.

MR. QUICK: No further questions.

* * *

(P. 1)

Oral Deposition of

Delwin L. Jones

ANSWERS AND DEPOSITION of DELWIN L. JONES, a witness produced on behalf of the Plaintiffs, taken in the above styled and numbered cause on the 23rd day of December, A.D. 1971, before William D. Hardin, the official court reporter of the 110th Judicial District of Texas, in the offices of BRUMMETT & BRUMMETT located at 2215 50th Street in the City of Lubbock, County of Lubbock and State of Texas, in accordance with the agreement hereinafter set forth.

* * *

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Q Okay. With that understanding then, Mr. Jones, I will go on or proceed with the questioning. For the record you were elected to the House of Representatives and served and you are still serving in that capacity, is that correct?

A That is correct.

Q For the 62nd Legislature?

A That is correct.

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Q And what district is that from, Mr. Jones?

A That was at that time known as District No. 76, Place No. 1.

Q That is here in Lubbock?

A That encompassed Lubbock County, Hockley County and Terry County. We have three house members from that district at this present time, Place 1, Place 2 and Place 3.

Q They all run at large?

A That is correct.

Q You were appointed to serve as chairman of the

redistricting committee or committee on redistricting at the regular and special session?

A Yes, that official name was Congressional and Legislative Districts Committee.

Q And under the rules of the House, I take it, you were appointed by Speaker Mutscher?

A That is correct.

Q Had you applied to be on this committee, Mr. Jones?

A Well, actually each speaker that I have served under has had each of us submit a request for committees that we have a preference for and this was one of those for which I submitted a request, that I be a member of that committee.

Q Had you ever served on this committee before?

A No.

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Q Had you made a special request to chair that committee or was that done under the rules of the house?

A Well, ordinarily you submit your requests for committee assignments and then the speaker determines the chairman when he makes the appointment. If you have an interest, mine prior to this had been in agriculture and I had indicated that I was willing to serve as chairman of any committee that I requested, but I had a primary interest in agriculture. This time I indicated that I had a primary interest in the Congressional and Legislative Districts Committee. I also listed agriculture and I believe—well, two or three others, I don't recall the others in particular.

Q You don't know what factors Speaker Mutscher considered in appointing you to this committee or appointing you as chairman, do you?

A No. You would have to ask him about that.

Q What was your interest in serving on this com-

mittee at this particular session of the legislature?

A Well, of course, I felt that this was one of the areas that are vital in drawing up the districts for the entire membership of the House and also of Congress, and in my opinion it is the basic structure for a ten year program for your legislative districts. Of course, it will have a vital role in any legislative matters in the future.

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Q Tell me how you went about structuring your committee after you had been appointed chairman?

A Well, the first thing I did was to try to determine a starting point for redistricting of the entire State of Texas because this would have a bearing in my mind of the structure of the sub-committees and I came up with what I called a quadrant division of the State of Texas. In other words, set up four geographical areas that were drawn along the physical boundaries of the present house member districts. This may be a little long but I need to get it all in to make it clear. Once I got that division made I then worked on the basis of appointing sub-committees to work within those geographical boundaries to come up with basic recommendations for districts. And these sub-committees that I appointed had no member from the geographic area that they were working on. In other words, each member that served on a sub-committee—for example, in this area out here, in the northwest quadrant were from other parts of the State. They were not residents of nor serving from this particular district or area.

Q I take it that that was done in an effort to achieve some semblance of impartiality?

A That is correct. We were trying to negate any feeling of personal—personality interest I guess in the drawing

of the particular lines within those districts.

Q Mr. Jones, was the entire committee appointed at the same time or were you first appointed chairman?

A No. The entire total assignments were made at the same time.

Q In other words, you didn't have any hand in picking who was on the committee?

A This is a priority or prerogative of the Speaker. Of course, when they announced the entire committee, well, I am not even sure that they designated by name that I was chairman, but the first name on the list is always the chairman. I believe in reading out the assignments I was—my name was read as chairman.

Q In any event you grabbed up the gavel or cudgel as it were and acted as chairman?

A Well, I was designated as chairman either by list, being number one in the assignment or by designation, I am not sure which, but I knew I was chairman of the committee.

Q You organized no, as I understand it, functional committees? That is, one committee to work on a congressional bill and one to work on a house bill and one on a senate bill or anything like that?

A No. The same sub-committees served in the same capacities. In other words, gathering information relative to the total

redistricting.

Q Did the Speaker meet with you at any time other than in the full committee with regard to the work of the committee?

A Of course, chairmen generally give progress reports and I know that I kept him posted, I don't know whether you would call it a meeting as such or not, but

I would try to keep him posted as to the public hearings that we were having and just the general routine that we always have in a function of the House.

Q Did you submit written reports?

A No, I don't believe we did.

Q Did the speaker ever indicate to you other than in the full committee any criteria that should be followed by the committee in performing its work? That is, what you should consider in drawing up the districts?

A I don't recall any submission of anything other than the fact that I was chairman and generally the Speaker's office supports the chairman of all the committees, you know, whatever direction he takes.

Q Did—

A His—I believe that there was one—I remember one particular thing or suggestion he gave me, after I was chairman, of course. I presented it to him in this manner, "You have served as chairman of this committee, now, what

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should this committee do that maybe your prior committees did not do?" And the one point that he emphasized to me was the one that we should set up, hopefully in his opinion, some public meetings throughout the State so that the people of the State of Texas could have a voice in expressing their opinions as to what they thought should be done on redistricting. And as far as I recall that is about the only general recommendation or the only specific recommendation that he had. His other comment was this, "As chairman I should become more familiar with the subject than anybody else." And that I had an awful lot of work to do and that I would have to get with it.

Q He made no specific suggestions either to you or to the committee as a whole, either in a formal meeting

or on an ad hoc basis as to what criteria should be followed in performing the work of the committee particularly with reference to congressional redistricting?

A No.

Q What—it is my understanding, Mr. Jones, in order to give the committee some formal thing to work by, that is, under the technical rules of the House, you introduced a bill within the first 60 days of the session, is that correct?

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A I introduced what I call the Caption Bill. In other words, it said it shall be a Congressional Redistricting Bill, something similar to that wording. And if I recall correctly we actually introduced the bill that was used for the prior redistricting for Congressional purposes, knowing full well that we had 24 Congressmen authorized under the new census figure and that that prior district bill had only 23 districts. And this was one of the mechanics of starting—having something to start with.

Q Strictly a mechanical type—

A That is correct. And this bill was then referred to my committee and we all—I think everyone was well aware that that particular wording would be changed extensively.

Q You used the pronoun "we introduced," is that a papal we or does that identify the group of people that introduced the bill?

A Well, I believe, if I am not mistaken, that I was probably the only author of it, and it may have had my vice chairman as co-sponsor, I am not sure.

Q Who was that, please?

A Clyde Haynes was Vice Chairman.

Q He was officially designated as vice chairman?

A That is correct. And—

Q Is that done under the rules of the House or is

that some-

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thing your committee did?

A No, this is one of the rules of the House. The speaker appoints the chairman and vice chairman of each committee.

Q Okay.

A And the record will reflect whether or not I had a co-sponsor on any of those bills. I don't recall the exact details.

Q And the bill that you introduced would be recorded in the house journal?

A That is correct.

Q All right.

A The bill and any subsequent amendments will be there.

Q I understand, Mr. Jones—I understand that after the committee had done its work there was a substitute bill reported out of the committee. In other words, the bill that you introduced was amended one time and this was the committee substitute?

A That is correct.

Q And the substitute bill in effect just struck out everything after the wording "Be it enacted," and just went on to specify the 24 Congressional Districts?

A That is correct. The exact procedure on that is this: The committee cannot make a substitution within the committee, but the original bill is the one that is placed

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on the calendar before the House, and at the time it comes up on the calendar, then your committee, usually it is the chairman of the committee, lays out what we call a committee substitute as Amendment No. 1 to the House Bill No.—whatever the number happens to be.

Q And then the House votes on it?

A That is correct. At that time the entire House votes to accept this amendment. And if they vote affirmatively and accept it, then your prior or original bill is not before the House, but your amendment version is before the House, and any subsequent amendments are amendments to the committee's amendment number one. Usually it is number one, if you find an error in the caption, well, you would correct that, of course. I believe in this case it was Committee Amendment No. 1.

Q All right. The committee votes on that amendment, whether to offer that or something else?

A That is correct.

Q Okay. This amendment is a recommendation of the committee to the full House?

A Yes.

Q I see. Now, what I want you to do, Mr. Jones, is just give me your own narrative of what happened in the committee from the time that you introduced the bill that

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you authored and possibly was co-sponsored by vice chairman Clyde Haynes and the time that the House voted on the Committee Amendment No. 1. You can omit the part about the hearings across the State, we have had extensive testimony from Speaker Mutscher and some other witnesses on that subject. Just tell me what the committee did.

A Well, of course, the function of the committee was to consider any bills that were submitted as—in this case Congressional Redistricting bills. I don't recall whether we had specific and entire bills submitted by other members of the House or of the committee, but I would say that our House record will reflect this as to whether or not any were introduced. If they were

introduced as a Congressional Redistricting plan they, I believe, were all referred to my committee. And public hearings were had on every bill that was submitted to my committee. The reason I am vague about the Congressional versus other bills is that we had not only the Congressional but we had our own house members' districts and we had a bill related to the redistricting of the Texas Education Board. But I do know that every bill that came to my committee was posted for a public hearing and was considered as such by the committee prior to any action that we took on coming out with this Committee Amendment No. 1.

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Q What—how many formal meetings did the committee hold, Mr. Jones, to your recollection?

A Well, I don't recall the exact number, I would stand to be corrected on it, but we had—I am going to estimate probably 15 meetings, 12 to 15 meetings total. Now, not all of them were related specifically to Congressional redistricting.

Q How many meetings do you recall that the matter of Congressional redistricting was specifically put on the agenda and was actually considered?

A There was one meeting for every Congressional bill that was submitted. I don't think we considered—in fact we may have considered two at one time. I will estimate again that we had three on Congressional redistricting, and that is strictly an estimate.

Q How long would those meetings have lasted in your recollection?

A Oh, in most cases they were not very long in the sense that if you had a bill before the committee that didn't have a large number of witnesses to testify, well, then, you referred it to a sub-committee so that they might work on any action—take any action they wanted to take with reference to the bill. I would esti-

mate that the longest one was probably about—I would say an hour and a half, maybe two hours. And I don't recall which particular

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meeting it was. I know it was in the Supreme Court—the old Supreme Courtroom in the capital building that we probably had our longest meeting, where presentations were made.

Q And these meetings were taken up mainly with hearing witnesses for or against a particular bill that the committee was considering on that occasion?

A Well, if I recall most of it was of a positive nature on all the bills that were submitted, those people that were submitting them had witnesses there stating their interest for this particular bill. And I don't recall that we had a witness who came and picked a particular bill per se and said, "I object to that bill." Most of it was on a positive approach.

Q Where, when and how often were there debates held by the committee on particular bills?

A Well, debates as such would actually be a discussion of the—I presume your question, would be the merits—

Q Yes, sir.

A Would be the pros and cons of it. Most of that discussion was at the time you had a sub-committee report back to the main committee, and at that time you were recommending that this sub-committee report be accepted by the committee and recommended to the full House.

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Q Well, I am a little bit confused and have been since we started taking these depositions. There were no functional sub-committees, as I understand it, that is, there was not a committee to work on a bill for Congressional districts and another one to work the

House and another to work on the—the other one that you mentioned, some field of education?

A Well, now, there was a sub-committee on each bill by number. In other words, the bill—what was the number of our house bill, do you recall, I don't recall? House Bill 782?

Q Something like that.

A It had a numerical designation, the Congressional Redistricting Bill, and there was a sub-committee appointed to work on that bill.

Q 782, you are right.

A As I recall. Of course, all sub-committees—sub-committee appointments are by the chairman of the committee. And at this moment I couldn't tell you who was on the sub-committee.

Q That was about to be my question.

A Well, I served as chairman of part of my sub-committees too, which is another prerogative of the chair. I am not sure whether I did on this one or not, but I possibly did.

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The record will show who was on the sub-committees.

Q What record, please, sir?

A The—I believe the committee records would have that.

Q Where are those located?

A In Austin.

Q In whose custody?

A Oh, if they are not—we have a committee clerk. If they are not with the committee clerk they would still be with some of my—would be with some of my papers.

Q Would you—

A I would be glad to help you find those or determine where they are and make them available to you.

Q Well, I was going to suggest that you do that,

possibly through the Attorney General's office.

A All right.

Q If you will have your office or the clerk of the committee work with Mr. McDaniel or Mr. Bailey I think that we can perhaps ascertain that information.

MR. FISCHAMN: Sam, is that—

MR. McDANIEL: Sure, yeah. We have got a whole bunch of papers. You can go through them and use them for whatever purpose you want to, both sides.

A It should be with the committee clerk, but if it is not I will help you locate it. We will trace it down.

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Q You don't recall off hand on this particular Bill No. 782 who was on that sub-committee?

A No, I would hesitate to try to name that because I could be in error, we had so many different things happening.

Q Well, how do these sub-committees do their work?

A It was generally on the basis of whatever information we had available to the various sub-committee people and then you just sit down and try—as we were trying in this to reach a numerical ideal of one man, one vote criteria. And to do that, I don't know how you would describe it other than saying that you draw a grease map—an over lay on a map and just draw grease lines in and try to see how to make the puzzle all fit together.

Q I take it that you had census figures available?

A We didn't have initially, but we did before the session ended. And our census figures came in not in the total form. In other words, we started originally, when my committee was first appointed, we had—I don't believe we had any figures. And the first thing we got was the population figures by counties. In other words, X number of people in each county, which gave

you your total of 11,196,730 population for the State. And following that we got in what I call the census tract maps. And there were several hundred of them that showed the various

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census tracts within the various counties. I was trying to recall, we got those county figures I believe in February. And then we got in a large volume of maps with census tracts with a plastic overlay that you put on top of it to show the geographic boundaries in each tract. We had two maps to work with.

Q I take it then, as you say, sit down with the overlay and a grease pencil and started drawing lines and this is where your committee clerk, I think it is Mr. Teague, was sitting there with his adding machine adding up.

A Well, the mechanics of it—actually what we first did, as soon as I got all of these overlays, and that was my first realization that we had several hundred maps to work with, I then got with the Highway Department and asked them if they could help reduce these into workable maps and especially in some areas like Harris County. We had to get one map for Harris County. We couldn't work with—I hesitate to say how many, but a large number of census tracts—census tract maps that were all a part of Harris County because you would have one map here and one over here. I think literally we could have covered this floor putting those maps together, but the Highway Department reduced these down so that we had a map of each county showing the census tracts within

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that county and we had all the tracts on one map, but it was from that that our staff people worked.

Q Do you recall, Mr. Jones, when, as close as possible, the work was done on this Bill 782, that is, actu-

ally sit down and worked with these maps and drew it out and ran the figures out and so on that we have been discussing?

A The final map was, of course, as you know, completed in that special session of the regular session—following the regular session.

Q You are talking about SB 1 now, I am talking about 782. You did report out a bill and the House voted on it before the end of the regular session.

A That was probably—I am going to estimate about the 15th of May. It was toward the end of our session. I pick that date by trying to remember when we finished our public hearings and then I made two trips, I believe, to Washington, D. C., and tried to share with our Congressmen the ideas and information and some—

Q That was before the bill was placed before the entire committee?

A I believe that is correct.

Q How many—do you know how many days or hours or weeks had gone into this before you had it in such shape that you could take it to Washington?

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A Well, I didn't actually take this particular plan to Washington. I tried to take to them some of the ideas that we had gathered up and as far as—actually asked them if they had any recommendations and invited them to meet with us. And I used Mr. Mahon's Appropriations Committee room and advised all of them that we would be there available to listen to any recommendations or hear any comments that they might have or try to answer any questions that they may have had.

Q I want to get into that—

A It was not a—but we did not take up plan—that this was a plan for all House districts in Texas.

Q Well, I want to get into that Washington trip in detail with you, but back to my question. Was—you don't know how much time went into preparing this Bill 782 that was reported out by the committee?

A I wouldn't even estimate on it because I put in so many hours on all of them that I—I have no way of making a fair estimate.

Q I take it that the committee had a formal meeting and voted on this bill?

A That is correct.

Q How long had the bill been available to the entire committee before this meeting where the vote was taken?

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A I am of the opinion that the entire committee did not have a complete plan prior to the time that we met to discuss the amendment.

Q That is prior to the meeting where the vote was taken and the bill was approved by the committee?

A If they did have it I would call it a minimum time that they—well, I don't think there was ever any plan laid out anywhere because any time you laid out a plan you started getting criticism generally or getting response generally of those who were dissatisfied with some part of it. And I don't believe it was laid out. If anything it would have been no more than 48 hours in advance of the committee meeting.

Q All right. Were there some objections voiced in the final stages of the committee on this bill?

A I am sure that there was some but I don't recall any specific points that were singled out as being objectionable.

Q Do you recall any of the objectors?

A I couldn't say positively that it was on this Congressional bill or on this House district that people made specific objections, but I recall, I believe, Bill

Blyth from Houston was one of my committee members, and I am not positive, but I think he was one that objected to the plan, but it was a general objection, I don't remember specifics.

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Q Do you yourself recall, Mr. Jones, working on the Congressional Districting bill in the committee; that is, actually sitting down with the grease pencil or sitting down next to somebody with a grease pencil and giving them your in-put—your thoughts that you used as a member of the legislature and chairman of the committee?

A We didn't meet as a committee as a whole and do that type of a thing. In other words, I didn't sit with the entire 21 members.

Q I am asking about specifically in relation to this bill, whether it was with the entire committee or whether it was with the sub-committee that was working on this bill or just a group of legislators on the committee that happen to be working at that time?

A Well, I am sure I did. I am trying to remember what the situation was. A lot of it was handled by the clerk. I would ask him to draw up our basic map. You know something that would meet the population requirements and then we would try to draw from—well, we worked from that. We would make modifications of it, but I don't recall—

Q Well, what I am getting at, did you actually and specifically make any modifications or work with any of these plans yourself?

A Yes, I worked on them extensively myself.

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Q That is the thing that I am really trying to get at, Mr. Jones. This bill, it would seem to me, would have had to have been the product of one or two men's genius to get it moving and, you know, whatever

changes might have been made as the group of people expanded is one thing; but I am trying to get at, who originated this bill?

A Well, I would—the House bill version was certainly more my origination I think than anyone else. As far as coming up with the—with a base plan—from the base plan you have just got modifications, which—you know, as a matter of whether one county was in this district or another county in another, or whether you tried to keep all of a certain river basin in—do they have some common interest along a river basin line that ought to make them fit in one district or should you—to meet a population requirement, do you have to divide it at some point. So, I was the primary architect, I guess is a good word, of that plan.

Q Well, I used the word genius. You can feel free to adopt it if you care to do so.

A Will the press pick that up?

Q Let me ask you this: What did you do—how did you go about doing this? What factors did you consider in drawing up this basic plan?

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A Population was the number one factor.

Q Was there any other?

A In my own mind, and this is not a computerized process, I think that everybody will recognize, there were—you have got to pick a starting point, you have got to start somewhere and end up somewhere. And your heavy population growth areas, of course, your Dallas-Fort Worth and Harris County areas, and you have got all of the East Texas area, and I would say generally the master—the final plan probably evolved—well, now—I am about to get the two mixed up. Our conference report is separate, which occurred in the special session. This house bill plan was drawn up trying to recognize that we had an increased population

in East Texas. I remember two points that came to my mind, who gets an extra Congressional district, because you have got a new one created, the 24th one authorized by the census figures, due to an increase in population. The areas that were apparent to me as being the big growth areas was the Harris County area, and I use that term generally, meaning all the surrounding counties around Harris County, and the Dallas-Fort Worth area, the big growth areas. So in my own mind I was reconciled that there would be at least one and possibly two new districts created over in that area. And you just start piecing

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these things together trying to draw up an ideal. And we—

Q What other factors did you take into consideration besides this growth pattern that you have just referred to?

A Well, the geographic factors was one. Of course, the area economic interest was another that—without being able to get statistics as to various specific type of industry, in my mind it was a general feeling that the Fort Worth-Dallas area had some economic interest. And they certainly had one area in common interest. And I guess I originated the idea of what—had pride of authorship in the name of a mid-cities Congressional district. I felt with the Fort Worth-Dallas area building an airport jointly that there was certainly some justification where a Congressional district would overlap those two counties. And in my opinion included a lot of the population that would be closely related to that airport development. So that is the most specific economic interest that I can point out as being one of the specifics. The first reaction to a Mid-cities Congressional District I think was kind of surprise, and after we moved along people came to—

or at least we got indication of support from the people in the area up there that they didn't object to that sort of a district. I don't know whether the first was objections or just surprise, but they hadn't thought about Dallas and

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Tarrant Counties sharing a Congressman in a sense that it would be a rather small compact area.

Q What other factors then? You have mentioned this population, and you have mentioned economic interest and I believe geographic compactness, are there any other factors?

A Well, there was one that I referred to in several press releases, a request that we have people participate and make recommendations, I called it cultural. And to me an example of what I had in mind by cultural, and I mention this to people when they ask about it, was such as educational facilities. Not necessarily in the Congressional Districts but in the House districts, I felt it was important that we not split right through a campus and have one half of a campus in somebody's district and the other half in another, that sort of thing.

Q Do you recall specific instances in that regard?

A Specific—instances where we might have been divided?

A Or made an effort not to divide them.

A Well, not on Congressional I don't recall any situation that would have been involved, this general description of cultural interests.

Q Well, in the final shape of the bill this cultural factor was not a factor at all?

A No, as such, I don't feel that it got—you know, a part

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of the final Congressional bill unless you would think

in terms of agricultural and ranching, but to me those could be economic factors instead of cultural because we didn't have any place that we were cutting—as I recall in the Congressional bill that we were cutting either a campus or a city or some closely related group of people because of their particular area. I don't believe we did that.

Q Did you end up, in your opinion, with any districts that combined widely disparity of cultural or ethnic groups?

A Not to my knowledge. I don't think we did.

Q What other factors, if any, Mr. Jones, did you consider?

A Well, we tried to—I don't know how you would describe this, but we tried to present a plan that would not be displeasing to the people involved within the district. I am talking about the people of the district. I am thinking in terms of just the general public. I don't think you should draw up a district at all that they are unhappy with and critical of because somebody is going to have to serve in that district and I think you need some district that they can have what they consider to be fair representation.

Q What other factors, if any?

A As I recall it that pretty well covers that field. The big thing was the numbers game throughout the area.

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Q All right. What do you mean by the numbers game?

A I started to say I had better define the numbers game as being the population balances, trying to distribute these districts on the basis of one man one vote, getting equal population.

Q The original—

A If there was another—I have another thought

here. If there was another factor that entered into any of these districts I would feel that it is related to our interpretation or if you want to narrow it all down basically, our interpretation of the trends or growth. By that I mean, you have got some area with real fast growth and you have got some areas that have a declining type trend.

Q Which districts, if you recall, were affected by these growth patterns?

A This would be real general and I have to acknowledge that I haven't even looked at the plan that we are talking about on Congressional districts, either the final version or the one that we are discussing, the House committee version, but generally I think it was our or my recognition of the West Texas area was, that percentage wise that we had a declining trend. In other words, most counties, as I recall, throughout the western part of the State either declined in population or certainly did not grow at a

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rate that all East Texas and North Texas and the southeast area of the State and even—I believe even down in the Valley is growing.

Q What did you base that on? Just a comparison of the 1960 and the 1970 census figures or did you use some more refined data, whether it was census data or something else?

A Well, in the West Texas area I would say we probably used less refined data in that—well, I will give you an example that I can be more specific in. Looking at the area from north of Midland and Odessa and going as far on an extended line straight east to include the Wichita Falls area, going right north when you get east of Wichita Falls—

Q That would be Representative Burleson's district?

A Well, this is just the part of the State I am talking about. In all of this upper Panhandle. We were about 300,000 population short because I knew in our own House districts that we were going to lose four house districts because of population changes, not necessarily a decline but a per cent of decline as related to the growth of the rest of the State. So I—mentally I knew in this area we had a severe decline by comparison with the other parts of the State. This same figure, I believe, will hold true just generally speaking, in all of West Texas.

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Q How exactly did you take that into account in drafting the bill that you drafted and also the final bill?

A Well, my own feeling was that if we had any high deviations, in other words, districts with more than the exact number for a district that these declining areas should constitute a high deviation figure and not a low sided figure. And this was my thought, and once again it is not a computerized fact, but my thinking was if we had low population in growth areas, they would probably continue to grow and during the next 10 years there would be some degree of equity for the people in that—our sparsely, settled, declining areas, if they were on a high side, would probably decline and those that were on the growth side would grow. And at some point in this ten year span of time the two would cross and you would have some equity of fairness.

Q Any other factors that you can recall?

A That covers it I believe, as near as I can recall.

Q Well—

A I have got five months on it and I know there is a lot that I can't remember.

Q I have before me probably every public utter-

ance that you have made on this subject, Mr. Jones, and there is one thing that leaps off of every page is a determination, if you will, to avoid, in so far as possible, one incumbent

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Congressman running against another in one of these newly created districts. Wasn't this a factor?

A Well, of course, I think that is one of the factors that would enter into it, that did enter into it. And another one, now that you have mentioned specifics, I think—Mr. Mahon is chairman of the appropriations committee. I think any district that you would—in trying to represent the people of Texas, you have to draw up districts that take into consideration those incumbent Congressmen, if you are going to properly represent the public because all of your congressional actions are strongly related to seniority service and if you pair two incumbents you are going to lose your seniority. And it is the political structure of the State that is involved in getting the people represented, and, of course, all the people involved. If I were to summarize the—just the man on the street that came to every committee hearing or every public hearing rather to make a statement, the summary would be, "that we don't want to change our present Congressman's district. We want to keep him." They were all highly in favor of that even to the extent that some of them seemed almost ridiculous, they just didn't think that population ought to enter into it. The strong recommendation was "save our Congressman." This was the plea to me.

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Q Well, how is this done? How do you "save a Congressman"?

A I don't guess there is any way you can do it. His people are the only ones that can save him since they

are the ones that have to cast the votes. But you can even—oh, I think you could draw up a plan to disenfranchise the people and also disenfranchise the person representing those people in their present district if you should draw pie shaped districts in a way and in such a manner that basically the present district would not have a very large voting per cent of the population. You could completely change the balance of power from one end of the district to another end.

Q Well, as I understand it, of course, you have been privileged to serve the people of this area in the Legislature for many years and probably know more about this—well, I know for a fact you will know more about it than I do, but let me see if you disagree with this statement: As I understand it, the district or actually to even narrow it down more, precincts and census tracts, census enumeration districts tend to vote generally the same year after year after year, you will have a balance of, say, 55 per cent conservative versus 45 per cent liberal almost in every election. Would you disagree with that?

A Well, I haven't studied the—well, I will clear up this,

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now, your census tract data wouldn't fit any voting pattern because your precincts don't follow—as I have observed it, your voting precincts don't follow your census tract lines. But I think your statement is accurate in this respect, there is undoubtedly some philosophical pattern, if you want to call it conservative voting pattern, that would predominantly hold over many years, it would be a slow change. You never suddenly change the philosophy of a group of people, I don't think.

Q Then the idea in protecting an incumbent's district is to give him as many of these same precincts

that he had before that voted for him rather than to shift his district where he might, instead of being in a liberal area, find himself running in an area that votes predominantly conservative, is that generally the way this works?

A Well, that would be one way that it could work. Of course, I would say this in reference to this whole pattern of answering questions in press releases, while you are in the process of drawing up districts, had I made any release stating that we were going to pair 10 Congressmen, then suddenly I would have had the wrath of all of the people of the State interfering with an orderly process, and these utterances don't necessarily mean that they were the main criteria because we sincerely tried to draw

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the entire plan on a representative basis of population. But I didn't make any effort to stir up any opposition as we went along. You are generally trying to please people in any political situation.

Q Let me ask you this: As a mechanical matter, say that you had drawn your map on this Bill 782 just strictly on the basis of population, then I take it you would look at it and see whether—just strictly for an example, this would be a relatively comfortable district for Congressman Mahon to seek re-election in or Congressman Burleson or Congressman Patman or whoever it might be that you were examining, and then if you had necessarily changed the voting pattern of that district you would see what adjustments you could make within the concepts of one man one vote?

A I don't recall that we ever narrowed it down to the point where you could feel that it was a concept of philosophy that had the—that made that decision because as I indicated I did a great deal of the work. The one point that I tried—what I felt like we should try

to meet was to draw our lines according to voting precincts in those internal areas of Dallas, Fort Worth, Harris County, but I found out right quick that that was such a complicated process, that trying to correlate voting precinct lines

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with census tract data and then with whatever we were trying to draw in the way of lines, that it proved to be a task that was certainly beyond my means. So, we finally resolved it out that we would try to draw these lines according to the census tract lines and if there was some disparity as far as voting precincts that were involved then the commissioners court would just have to adapt the voting precinct lines to fit our requirements. Now, you may not follow this, but what I am saying is, it would not be real practical to have a Congressional district that split a voting precinct, in my opinion, because when they print a ballot for Voting Precinct No. 26, you would have to have two sets of ballots. One that affected the district that Congressman so and so was running in and another that affected the district that the other Congressman was in. Then you add confusion to the election processes. I had hoped we could eliminate that confusion, but once I looked at precinct lines and tried to correlate the census tracts to them I found out that it was just physically impossible for us to do it.

Q Well, nevertheless you could look at the census tracts and say that, assuming that precincts remained relatively the same, that this was a relatively liberal precinct here and you have got these four or five census tracts, and you

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have got so much population, and we will move it over into this next district in order to make it more comfortable for the incumbent Congressman because they

vote a different pattern historically than he has been used to getting elected from, is that a fair statement?

A Well, I think it is a statement that could be applied, but I don't think that I can remember a situation where it was applied. If there was any opposite application of it, the only situation I think of, I want to be candidly fair with you in trying to present these figures, would be in our own district with Congressman Mahon. Midland County is predominantly a republican county, but the strongest plea that came to me from any area was from Midland, that they be left as a part of Congressman Mahon's district, and he is a democrat. And we left it—we left that as a part of the district. And I would have to say in response to the plea of Midland, the people of Midland. If you were going to try to segregate out which area would be a strong democratic district, we could have dropped off Midland County and Mr. Mahon's district would have been a much stronger democratic district. But there were two things that would have made it practical if you had wanted to drop it. It is at the extreme end of the district. You could have very easily, I think, had

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justification for saying, "Let's just drop it off because we need to maintain some of the old district that has existed for many, many years." Though the people down there were really concerned and interested in having it maintained within his district.

Q Well, you had to sacrifice a considerable amount of compactness and community of interest and economic compactness in order to do that, didn't you?

A Not necessarily. Well, if you have got—their population was some 60,000, if you are thinking in terms of sacrificing geographic area compactness, it would have taken a large number of counties anywhere in this part of the country to get 60,000 popu-

lation. I would say a minimum of, and I am doing all of this from memory, I think you would have had to add at least five or six more counties to the district to compensate for that 65,000 population of Midland County.

Q Well, the net effect of it, in order to keep that entire county—

A Keep the entire county. Keep the entire county you have a more compact district, that is correct.

Q You would agree that Floyd County shares a certain amount of economic ties to the 19th District, Lubbock County and so on?

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A Oh, yes.

Q All right. And there is a certain amount of community of interest?

A Yes.

Q Cultural ties between Floyd County and Lubbock County?

A That is correct.

Q And you would say the same or probably more true of Crosby County, wouldn't you?

A All of these counties surrounding this area have their economic ties, common interest in agriculture.

Q And yet in order to accommodate Midland County it was necessary that you exclude Floyd County, Crosby County and Garza County, which is another one, from the 19th district?

A Well, it was not necessarily to accommodate them, but Midland was a part of the prior district, and so were some of these other counties that you mentioned, and it is just a final matter of how you draw lines to balance out figures. And these other counties—

Q Well—

A —of course, add on to other districts to the east. Well, if you have—if you can visualize the State of

Texas as a jigsaw puzzle, and if we were to take Midland out of the puzzle in its present form of this district,

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then you have got to push this district some other direction and when you push this district you have got to re-shape the next district. And the trade secret of drawing a map is this: If you start at Midland, presumably we move north and east in re-shaping district, at some point you have got to make a complete circle and come back or you are going to be out—your wheel won't balance.

Q Well, the—

A It is one of those decision things.

Q The point of the thing is, the decision in this instant, the factors to be considered, protection of the incumbency, predominated over community of interest or economic ties?

A It wasn't protection of the incumbency, it was in response to those—to the strong desire of those people in Midland County to stay in that Congressional district.

Q All right.

A It was in response to their pleas and there was no response from an incumbent that "I want this county or don't want it." There was no expression.

Q Now, if I remember correctly you say that you made two trips to Washington?

A That is correct.

Q Who paid for these trips?

A These trips were at State expense.

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Q How did you go?

A There was one—the first trip that was made we used the Governor's plane and I believe I went in the day before on commercial airline or maybe I went in

earlier that same day on commercial airline, but the Governor's plane was used on one trip where a part of my committee and a part of the Senate committee both went up together.

Q Do you recall who was on that trip, Mr. Jones.

Q Oh, I don't—I can check that information out for you and find out who was on it, but I don't recall.

Q Does the—whoever keeps the Governor's plane—

A Clyde Haynes.

Q —keep a log of the passengers or anything?

A You should have to ask him. I don't know whether he does or not.

Q You do recall that Mr. Haynes went along?

A Yes, Clyde Haynes.

Q Do you recall anyone else?

A I am trying to remember. I asked Jim Nugent to go. He was our rules chairman. You have—once you get a bill out of our own committee it has got to go through the rules committee to get it before the House. And plus the fact that I am not an attorney. I invited him to go along with me, but I think he—I believe, I stand to be cor-

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rected on this, that he went on that trip and I am not sure whether it was commercial or whether it was with the Governor's plane. I think he was on the Governor's plane, but I am not sure.

Q What again briefly was the purpose of this trip, Mr. Jones?

A It was generally a—my version of it was sharing the information that we had gathered at our public hearings, and this came after the public hearing. That was the way I scheduled it. And then certainly I was receptive to any recommendations or thoughts that the Congressmen had on what we should consider before we finally came up with our final district plans for the

Congressional districts.

Q And I take it that you did in fact meet with one or more Congressmen while you were in Washington?

A Yes, we met with quite a number of them. I don't know whether I have a list of who all—who we met with or not. I remember several of them that I met with. Of course, Mr. Mahon. We were using his facilities. It seems that Mr. Poage—I am not sure but I believe that Mr. Poage was out of town. I am not positive on that. I met briefly with Mr. Teague. I can tell you those that I think that I met with. I met with Mr. Purcell. I met with Bill Archer from Harris County. And I met with Jim Wright and Omar Burleson and several others, but those

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are some that I can remember personally sitting down to visit with and talk to and ask, "if you have any—are there any areas here that you want to tell me about?" And generally throughout this whole process I had released what I call thought provoking maps or some possibilities of a district or a series of districts, but at no point had I ever released an entire Texas plan or at least I don't think I had. And these "thought provokers" were exactly what I named them, to get people to thinking about an area like the one I had put in the map and then "if you have any points that you think this is not satisfactory, the people think are not satisfactory, well, express your opinion on it."

Q Did you receive some suggestions?

A From the Congressmen?

Q Yes.

A I recall only one specific that I requested, one specific map. Most of them made their recommendations in generalities. You know, "This is my old home district and I would like to preserve it as nearly as possible, but I know that you have got problems." And

as far as I recall there wasn't any violent expressions. In other words, nobody said, "Just don't give me that area because it won't fit." It was all a positive approach that they had

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a preference and that "we would like to maintain our basic district the same as we have it now. If you have to add something on this area down here has the same economic interest," and that sort of discussion. And we actually drew for them or tried to draw some of these grease pencil overlays that I mentioned to you, and get several different ideas from them as to what—

Q Are any of them still in existence?

A I doubt seriously. Your grease deal is a clear plastic deal and when you change it you just erase lines. So I sure—if there are any in existence it will be an accidental thing. If there is still something in the office, I don't know. I will check and see.

Q If you would do that I would be much obliged—

A If there are I would be glad to furnish them to you.

Q And did you incorporate any of these suggested changes into the bill?

A Well, at this particular point they wouldn't have been changes, it was just an assimilation of data. And probably the nearest to anything that I would say was incorporated would have been, and I am doing this once again from memory, in Harris County, the thoughts or recommendations that Bill Archer had, probably come nearer to fitting the districts as they are drawn down there in that particular

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area, or as nearly as any in the State.

Q Is that a coincidence or was it by design?

A Well, it fit in pretty well with the rest of the pattern of that area and seemed to be one of the satis-

factory things. There is not any, in the sense of predesign, that he had any priorities over other people. I don't recognize it as such, but it is one. And the reason it stands out to me is the fact—the reason I remember it, Bill Archer served in the House of our Legislature. And, of course, he switched from the Democratic Party to the Republican Party. And I guess if there was any subconscious thinking, I didn't want to do anything that would disenfranchise him because of party politics. I was especially interested in what his preferences would be in that area.

Q Well, again—

A Or his recommendations, more than preference.

Q You are putting this in terms of party labels, but wouldn't it be more accurate to speak in terms of liberal versus conservative, irrespective of what label—party label a man adheres to. Because as you—I think you agreed a while ago these districts tend to vote the same way over a long period of time, change very slowly. So whether a man runs as a democrat or a republican, if his conservative

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philosophy fits this preponderance of the people in his district he is going to be elected.

A Well, of course, that is a matter of opinion, I think whether it is philosophy or what you use. I wasn't looking at the philosophical aspects of it. Probably in terms—I don't know Harris County, so I don't know whether—I am sure that he comes from a conservative district because I know him well enough to know that he is—has a conservative voting record. He always did in the House. So, he would nearly have to come from a conservative district or they wouldn't elect him. So it goes back to philosophy, but it is indirectly back to—

Q Was any effort made to prevent fleshing out of

urban—or rural districts with urban population?

A I didn't understand the question.

Q Was there any effort to avoid fleshing out rural district with urban population? In other words, where you had a rural district that met all the other criteria except population; that is, it was culturally compatable, it was contiguous as possible, it was geographical compact, and it was agreeable to the incumbent, but yet you just turned up with too many bodies short; was there any—did you go into the urban district in order to flesh it out, give it enough bodies to stand up?

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A Well, the one situation that I can recall that I think would fit your question was the opposite. And once again we go back to that mid-cities district, Fort Worth-Dallas, had we taken the so-called Abilene district, Congressional district, and used part of Tarrant County to build up the necessary population we would have absorbed, I think, so much population there that you couldn't have created what I call that mid-cities district. So really if there was anything done it was an opposite effect of that. And we stayed away from building that district there. Now, your other districts that I recall off hand that involved a large population area is that district, and I don't know the number, but it the one that Congressman Teague represents, which included a part of Tarrant County and a part of Dallas County.

Q And in fact stretches on down to the East Central Texas area?

A On down into Central Texas or East Central, you are right.

Q And—

A This one again, the reason I relate it, it is related to this other approach. If you took the Abilene district into Tarrant County, you either modify that mid-

cities district or you modify the district, the part that was in with Mr. Teague. And Teague was already—his Congressional

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district covered those same areas generally in the prior Congressional plan and also the one that we passed. So—

Q Let me ask you some specific questions about this particular one that you have brought up. That was the 6th district.

A I don't recall which one it is.

Q Well, I am looking at the map.

A Are you?

Q If you will take my word for it. You say that first of all that this is roughly the way the district laid after the last redistricting?

A Yes.

Q Was there any great expression of opinion by any of the people in the urban areas of that district, particularly in the Dallas and Fort Worth areas, either wanting to stay in or wanting to get out?

A They were real strong that they wanted to keep him serving a part of their county by the people who were contacting me. They indicated very strongly that they wanted to keep Mr. Teague in Tarrant and Dallas Counties. Well, Tarrant County people, of course, weren't worried about Dallas, but they said, "Don't take him out of Tarrant County. We love the way he is representing us." And the same thing in Dallas, the same presentation of ideas were brought forth. And in his old district, if you have

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it before you, you would see that it stretched completely off down to, I believe it went almost down to the coast. It was a tier of counties about one county wide. It was really a long drawn out district. And it

was jokingly said that you could drive down there with both car doors open and reach from boundary to boundary in this district, but, of course, it is not actually true. But we—in trying to reach compactness we stayed with that northern end and it fit the other patterns. Of course, once again you pull out of there and you have got to re-shape the whole thing.

Q You would agree that it is still a pretty long narrow district although you did manage to shorten it up some?

A It is much more compact now than it was. And I don't even know what it looks like right now to be honest with you.

Q Are you aware that it stretches as far south as Brazos County?

A Is that College Station?

Q Yes. College Station.

A I knew it went from College Station to Dallas, yes.

Q Would you agree that there is a certain disparity of economic and community interest between College Station and Dallas?

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A Not necessarily, there is not any gross disparity, I am sure there is some difference in that Dallas and Fort Worth are financial centers. This is my evaluation of what Dallas and Fort Worth are. Plus the fact that they are manufacturing, but they are also greatly involved with education down there where they have got so much high population. Of course, A & M is one of the historic centers of education. So, there are some differences, but as to how wide that disparity is, I think that is just a matter of each man maybe measuring from different points. If I were talking about farming I would say there is a wide disparity in the farming element. And the reason I

refer to that I am a farmer. The farming element would be quite different in Dallas County from Brazos County I suspect.

Q Let me shift your interest just a minute to the South Texas and the Southwest Texas areas of the State. Particularly I have reference to the fact that Bexar County is comprised of three Congressional districts, the 20th and 21st and 23rd. Are you aware of how that—basically the outline of those districts?

A Basically, if I remember, we have got what we call the core district, one district within the center of the county, and then the other districts come in toward that

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center district.

Q That center district or core district is the one represented by Representative Gonzales?

A Yes.

Q And I think you would probably agree that it has extremely high ethnic population of Latin American?

A I don't know what the population—how it figures out along those lines but in our San Antonio meeting I recall that the most urgent plea was that "we want to stay in Henry Gonzales' district," the present district. I think this is pretty close to his previous district. It is not exact. It was his previous district with some minor changes to meet the population requirements.

Q Now, the 21st district is Representative Kazen which encompasses Laredo and—on the south—no, I am sorry, the 21st is Representative Fisher, I believe.

A Clark Fisher.

Q Yes.

A If it is the one that runs up toward San Angelo.

Q Right.

A It would be.

Q Right. And it runs on southeast down into the western and northern part of Bexar County, does it not, your recollection?

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A As I recall it does.

Q Which would encompass the, if you are familiar with San Antonio, Alamo Heights area and some of the more affluent suburbs on the northwestern part of Bexar County, would it not?

A Well I am not familiar with Bexar County, but if that is where they are it would.

Q Okay. Would you say that there is a community of interest in that district?

A Community of interest with the remainder of his district?

Q Yes, sir.

A Is that what you are talking about?

Q Yes, sir.

A As I recall the thinking that I had with reference to that area is the fact that Bexar County or San Antonio is predominantly a military—militarily oriented economy because the—because of the historic fact that we have such large military bases and facilities there. And one of the reasons for building his population, if you want to use the term "building," out of Bexar County is the fact that he has a predominant role on one of the military committees in Congress. And that this was—I guess this was in response to an economic interest that we were aware of, that there would be compatibility to that area—to

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the area he had been serving before.

Q Yet none of the large military installations in Bexar County are within his district, are they?

A I don't recall whether they are or not, but the

main emphasis, as I recall it, was his position on the military committee was certainly essential to all of San Antonio, whether it was a base or just the entire town. Of course, the basic factor in all of this was to make all of these districts come up to the population tolerance which was needed. And in some of the sparsely settled areas the only place you are going to get people is by attaching them to some heavily populated area.

Q That is what I am trying to get at. Fleshing out a rural district with urban population?

A This is one of those situations.

Q And the same would be true down in the 23rd, which I believe that is Representative Kazen's district, which encompasses Laredo and the southern and eastern parts of Bexar County, and points north and goes over as far east as Lavaca County?

A I think his district, the strong emphasis on that part of the county, and once again I re-emphasize I am doing it from memory, gets back to the fact that he had a large segment of Latin American or Mexican population throughout

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his district and the same was true up in Bexar County, his part would encompass quite a number of the same people in those areas, same ethnic lines.

Q Did you actually have such information available or was this just a matter of, you know, in doing these things, a matter of applying general knowledge or did you have specific data?

A It is very general because as I recall we didn't have anything at all related to where the ethnic groups concentrate in any area. It was just a matter of, you know, some general statement that somebody or myself would know that there were a certain number of ethnic people in an area within a county, And it was

certainly, I am quite sure, not very accurate.

Q You didn't miss the mark by far in the 18th district, referred to as the "Barbara Jordan District."

A Well, I don't know how the—where the people live but I do understand that it is predominantly a Negro district. And certainly I feel like this when you have a heavy predominance of people there, if there are enough to make up a district—as I recall the presentation of the Houston—their presentation from the Negro people was generally this, and this is a summary, not a specific—maybe a quote from one of them, "I don't care how you

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make our district, just don't cut us into little pieces where we can't elect anybody."

Q By the same token, the net effect of that was to remove some very heavily black precincts from other districts, such as Representative Archer, who you have already indicated is a predominantly conservative member of Congress, and—I am trying to think who some of the other people are from down there. Casey is one of them.

A Bob Casey.

Q Another example—

A Eckhardt

Q Eckhardt, as I understand, has a rather liberal voting record, so it wouldn't make much difference to him, but it would have the net effect of removing a lot of white voters from Representative Casey and Representative Archer's district, would it not?

A Well, of course, the primary interest throughout this—my primary interest was for those people to be represented and it was not predesigned to remove them from anybody's district to add them to a district. The configuration now may show that that was the net result, but that wasn't the primary objective in trying

to remove or relocate them. Trying to meet the population requirements and trying to blend in with what those people wanted and

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what their interest was. And certainly there are enough of them there to form a Congressional district. I have no objection to them all being together. I think you would disenfranchise them if you just made a pie shape—bring all—what is down there? Five districts? If you would split it five ways. See if you would split it five ways you would only have about 92,000 people in each Congressional district and they wouldn't be in a position to—in my opinion, feel like that they could elect their own Congressman and be fully represented by someone of their choice. They cast a vote but the other 370,000 people in the district would dominate it.

Q That is possible.

A I mean that was another possibility. Once again it just boils down to the point that you have got to draw a line somewhere and begin working from that.

Q Now, let's shift our attention back to the north and I want to ask you about—a little bit about this mid-cities district and its relationship to the 5th. Do you recall ever speaking to Congressman Cabell while you were in Washington?

A He was at a breakfast that we—or a luncheon. I believe it was a luncheon that we attended. He was there but I don't recall drawing any lines or his drawing any lines,

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you know, with reference to how to draw that district or whether I drew any for him, I don't recall.

Q Do you recall him expressing any views about being satisfied or dissatisfied with his district as it now stood?

A If I—the only thing that I recall about any of them was their general position. You know, "I would like to maintain the same district that I have if at all possible." So it would be a general statement of satisfaction with his prior district, whatever it was. I don't even know how much it varies from what we have presently got.

Q His district under the way it is built, if it had been kept the same, would have been substantially over populated, would it not?

A Probably would have. I don't recall that specific data.

Q Can you tell me why 10 predominantly black precincts were shifted out of his district and into the 24th?

A The 24th is a new one?

Q Mid-cities. Yes, Sir.

A I don't recall any specific reason.

Q Were you aware of this fact prior to my asking you?

A Not until—

Q All right.

A Not until you asked me.

Q Had you ever had any discussion with Representative Holmes

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about that fact?

A If there was any discussion on it I don't recall it.

Q Do you recall him—

A Now, he may have made—he may have mentioned it, but as far as any discussion it was not of such paramount significance that I recall it. I don't recall him ever mentioning it. But this doesn't say that he didn't do it because I don't have that total recall. I wish I did.

Q Let me say this, Mr. Jones, I have got these

maps in front of me and I don't want you to feel like I am trying to take advantage of you, if you want to look at any of these maps or anything else I have got in the file feel free to do so, if it will help your recollection.

A No, it is—if it were a real significant point I think it would probably stand out.

Q Let me direct your attention now to far West Texas. You have already indicated to me that where you felt based on a comparison of the '60 to '70 census and what other general available information you had, a district with a growth area you made a deliberate effort to under populate it in order that sometime within the next 10 years it would catch up with those that were decreasing.

A This was general and I don't know that it applies in every case. But that was what I—as I recall it, what I hoped

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would be achieved.

Q Well, let me ask you this: Did you deem the 16th district, that is the one the chief city being El Paso, to be a growth area or one that was going to lose population?

A It was, as I recall it—this is—a vast part of that is in that almost desert land, declining area. You have got a large number of rural counties that are declining, and then it extends down to Odessa. And Odessa is a growth—was one of the growth areas, I believe.

Q And El Paso is a growth area, El Paso County itself?

A It has some growth but I don't think it is great big percentage wise growth, and I may stand to be correct on that.

Q Well, the point of the fact is that El Paso County itself has 75 per cent of the population of that dis-

trict, and when you add in the Odessa—that part of Ector County where Odessa is situated, then it comes up to something like 85 per cent of the population of that district. Both of which you have indicated were moderate growth areas.

A Yes.

Q Now, my question is this: If your intention was to account for these things, why is it that the 16th district is 11,084 people over populated from the numerical ideal?

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I would like to preface that by saying that this was the allegation that was made in the complaint filed by my clients in this suit and it has been admitted in the answer of the State, and it is taken as a given fact.

A Well, I am not questioning that, I am sure you are right on it. At some point in there and I am trying to recall why that—there was some thinking about a change in El Paso. You know, that this growth factor was not—had some inconsistency as a guideline there. I don't recall whether it was military changes, but somewhere in my own thinking I didn't—or I don't at this point recognize why we made that difference other than my general thinking is that all of West Texas is a declining area and it may have been overly generalized there.

Q When you refer to West Texas, are you also encompassing the Panhandle and the 19th district as well?

A Yes.

Q As being declining?

A To me West Texas is from Abilene west—Wichita Falls and Abilene west.

Q So your testimony is that you felt that the 13th district, which is the Panhandle, was a declining area?

A Percentage wise, I feel it is declining in compar-

ison with the rest of the State.

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Q Well, did you consciously and definitely take into accounting in establishing the 13th district?

A I don't recall at any time that I could pick out a certain district and say that we ever determined that X district had so much growth trend one way or the other and, therefore, we had to go over or under by any certain number. It was sort of just a general guideline that was in the back of our minds.

Q All right. Then, it was not actually done on a systematic basis, applying the size of topography to the population figures?

A Right. I think that is accurate, it was not systematical. In fact we didn't systematically, I don't believe, evaluate each one of these districts with that thought in mind, or I can say I didn't, I don't know what the rest of our committee of conferees used, but I didn't systematically do that.

Q Okay. Now, you have no knowledge of anyone else having done so?

A Not on the House side. If there was any more extensive consideration of it it would have been on the Senate side.

MR. FISCHMAN: May I suggest that we take about a minute or two break?

MR. McDANIEL: Okay.

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(Recess)

Q Mr. Jones, you, in passing in answer to a question a while ago, made mention of a fact that I want to explore with you a little bit more, and that is, you used the word "population tolerance." Tell me what you mean by that, sir?

A I don't recall where I used it. Do you recall how I used it?

Q Well, I gathered, I don't want to go back through the reporter's notes, but you were talking about acceptable deviations from mathematically equal figures.

A Well, I think the—I don't know how it was used, but my general thinking of how it was used would be in a context that we know that there is not any way that you can get the exact, absolute number of people to come out—you can come out pretty close, it might be possible, but I don't think it would be practical.

Q Let's get—

A There would be some deviation.

Q I take it because you have to write these bills by census tracts—

A Right.

Q —in the populous counties, and census enumeration district are entire counties?

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A Right.

Q In the rural district and there is no way you can get it to come out to 466,530 every time?

A That is right. You would just have to go in and count everybody personally and say "I know that there is this number of people living in this corner," and then you would end up—to get it perfect, I think you would have to split county lines extensively.

Q Was this something that you tried to avoid doing?

A Splitting of county lines?

Q Yes.

A Yes. And once again this relates back to your system of conducting elections because basically elections are held within counties and precincts come under that unit, you don't have an overlap between the two.

Q What deviation was acceptable in your view?

A What—

Q That is, without doing violence to the principle of one man one vote?

A Oh, of course, my opinion was that we should stay as close as possible to the exact number, but in my own mind I—and this is not anything other than my own opinion, I felt that variations or deviations of as much as five per cent, which if you have five high and five low would

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give you a total difference in the district of 10 per cent, which would not be an unreal figure in seeing—in saying that you could properly represent districts.

Q You mean to tell me that it is not physically possible to draw a bill that comes within five per cent either way or—

A I—

Q I am sorry. Strike that question. I didn't ask it right. What I am saying is this, if you came up with a bill that deviated five per cent up or five per cent down, or a total of 10 per cent between the highest and the lowest, that that would be acceptable, even though you could draw one that was tighter than that?

A Now, this was my opinion. Yes, I think it would be—should be acceptable. And, of course, if you can draw it closer I think you should.

Q And I take it that that was your view during the legislative session?

A Yes. To draw it as close as possible.

Q But five per cent either way was okay?

A That was my opinion that it would be. Of course, I have no idea whether we have got a Supreme Court opinion on Congressional districts or not, on that deviation factor, but I think—it seems that somewhere there was either

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a statement made or there was an opinion cited where there was three or four per cent or five per cent deviation or something like that.

Q Okay. Well, let me ask you this, it has been admitted in this lawsuit from the pleadings that the maximum difference between the highest and lowest was something like 4.1 per cent. And is it now your testimony today that the bill could not have been drawn—it was impossible to draw it any tighter?

A The question I want to ask is this: The figure that you quoted, the 4.1, is the total spread?

Q Yes, sir.

A In other words, there is X number above and X number below and when you add them together you come up with 4.1 variation?

Q I think I can be specific about it by referring to the pleadings. The 15th district is 1.7 low and it is either the Amarillo or the Lubbock district; the 13th, the Amarillo district, is 11,326 over, which is 2.4 per cent, and the total spread between the 13th and the 15th is 4.1 per cent.

A That is what I wanted to be sure of, talking about a total spread or deviation. I think this, that if you draw up any comprehensive total state-wide plan that, in my

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opinion, this is as near as you can draw it to get to the ideal figure. Now, by that I mean, you might modify these particular districts that you have enumerated here to get them real close to tolerance. In other words, make the two of them almost exactly the same, but I feel that at some point in the State you are going to come up with another district that has some variation very close to that, not necessarily exact, but very close to it.

Q Would it surprise you to learn, Mr. Jones, that

in this lawsuit the Plaintiffs submitted a plan that was virtually identical to SB-1 in the geographic composition, the district cultural composition, economic composition, preservation of the incumbent, yet the deviation was in any instance no greater than .1 of one per cent?

A Yes, it would. It would surprise me.

Q Let me ask you this, this may be answering the same question, or me asking it another way: Why would it surprise you?

A Well, of course, based on the number of hours we put into this one I thought we had evolved a plan that when you took all the factors into consideration we were just about as close as you could come with it. Of course, once again I suspect you could take any plan and possibly make some modifications in it and get some improvements on it after—

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if you had the time to spend on it without any—without the pressure of having to meet a deadline. But it does surprise me.

Q Well, you would think that an improvement of making a plan 21 times better in the maximum instance would be a significant improvement, wouldn't you?

A Well, I think this one—I probably don't understand the question because I don't know what your definition of improvement or better would be. So my definition and yours might differ. I am not trying to be argumentative. I don't visualize your plan.

Q My question called for an argumentative answer. So I will ask another one and we can move on. Tell me if I am summing up correctly what you are saying in regard to these matters we have been discussing for the last minute or two. The plan you all did was the best that you could, taking into account

all of the factors other than just the raw population figures?

A That is my opinion. We had just reached the point where if we solved one problem that another would—that solution created another problem, because after you get the final plea worked up, you change one or two counties and somebody is not going to be satisfied with that change. You finally just reach the point that this looks like the

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very best that you can do and put it to the vote test.

Q That is the final test, isn't it?

A Right.

Q What will pass?

A Right.

Q You can draw the best plan in the world but if the Legislature won't pass it then it is not worth a plug nickel?

A That is right. This is the point the computers can't see. In statistically computing data like this is the fact that you—in our case, we had to get the vote of the membership of the Legislature. There were 181 votes and the majority of them had to be satisfied or all your work was to no avail.

Q This was the best bill that had a chance of passing?

A This was our opinion on it, correct.

Q Although you will concede, having been advised by me, that a better one could have been done, better numerically, I say that term without prejudice.

A You might draw one statistically that would come nearer to the exact numbers, but I don't know whether it would improve it any as far as representing the people of the entire State and certainly I doubt that it would improve the possibilities of getting the necessary votes to pass

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it in both houses. So I think we are both agreeing on the same point.

Q Mr. Jones, you were on the conference committee, were you not?

A That is correct.

Q Let me ask you this: All the previous witnesses have testified that it was generally understood from the very outset of the legislative session that the Congressional redistricting bill would be written in the conference committee?

A This was the—of course, this is the general understanding on any bills where you have this much difference of opinion. You just finally have to resolve it down to a rather small group and hope they come up with the best compromise solution. And in this area I think it was understood from the very beginning that certainly the House was not going to draw the whole Congressional plan and neither would the Senate draw it, because just the act that I don't think either body could draw one that both sides would agree was the very best.

Q Here again that is the name of the game?

A That is right.

Q You have to—the Senate might view the various factors other than raw numbers differently than the members of the

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House?

A That is correct.

Q And vice versa?

A And you might start at some different point in putting these packages of district together and certainly if you start at two different points you are going to have two different answers even though the basic idea might be pretty close to the same.

Q I understand further, pursuant to this general understanding that the House was going to draw the redistricting bill for the House and the Senate was going to draw the redistricting bill for the Senate?

A This was my feeling on it. Of course, we are talking about different bills now. But on the House redistrict plan my feeling was that the House membership knew more about their district than did the Senate membership.

Q And vice versa.

A And the same was true for the Senate people. And personally I felt that this was the way it should be drawn because after all the people elect the House members and the people elect the Senate members and they are not all identical in the districts that they are in.

Q Fortunately that is not my lawsuit.

A Okay.

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Q We can worry—

A We can get off of that theory then.

Q We can worry about something else for a minute. Let me ask you this: You, of course, as chairman of the House committee and you have already testified that you had a substantial hand in passing the House bill, and then I take it you were also on the conference committee?

A That is correct.

Q Tell me what went on in the conference committee?

A Well, I guess each of us had our—and I am speaking of the House and the Senate, members of this conference committee, had our basic ideas that we were interested in. Now, we had passed the Congressional bill out of the House. So this certainly indicated what our House membership wanted. And then

when we brought the Senate conferees in and they—each person would have some area that they thought should be different or some plan that they felt should be better and was interested in presenting it. And once again we went into this rather long drawn out grease map making process with the conferees there and we drew maps.

Q How far apart was the version passed by the House and by the Senate during the regular session?

A I don't know that I could even answer that question. I

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don't know. I don't recall what big difference we had.

Q How long—how much effort did it take to report out a bill from the conference committee?

A Well, we were working during the regular session pretty strenuously, and I recall that on the night before the regular session ended that I spent the entire night, from 7:30 P. M. until 7:10 the next morning—7:15 the next morning in the conference room. And the conferees were all present at least until 1:30 or 2:00 o'clock in the morning. And at that particular point it had narrowed down—well, several of the conferees were just physically exhausted and thought we should shut down, but we were trying to complete it before the session ended. So I asked Senator Word if he had any objections to our going ahead and trying to work up a plan and then get everybody to take another look at it the next day, which was the last day of the session. He had none and he and I continued to work longer than that. I don't recall the time element. He left at some time before I did. And finally he said, "Now, you know generally what we have been working on. Are you physically able to stay and see that the staff draws it like we are talking about?" And at that point I stayed the rest of the night. And I am not

sure, I think at least one and possibly two of my conferees

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stayed with me the rest of that night. And we came up with what we thought was a plan that everybody had been discussing, even though everybody was not there at the final time. We, of course, spent nearly all of that day in getting the—in letting the legislative counsel staff draft the verbiage that goes with the description on this kind of a map. And as I recall it they didn't complete it until pretty late in the evening. And we got the conference report ready, I did at least on my side. And you will remember this, there are two conference reports. The Senate makes their conference report and we make our conference report. And you sign these jointly if everybody is in agreement. And I got my conference report—

Q They are identical?

A They are identical reports. My house conferees were agreeable to this version, at that point I think at least four of them were. And then well into the night, the that that our—whatever that date was that our regular session ended. We were trying to round up the Senate conferees to get them to review this and see if this was everything that we had agreed upon the preious night. And there were a part of their conferees and I don't recall which ones that were not there. But I do know that Senator Word could not locate all of his conferees

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that evening to get them to officially sign the agreement and he didn't indicate that it was totally acceptable to him or not. He wanted a majority of them together and let them take a look at it. So finally the midnight hour came and that was the end of the session. So we were pretty close at that point. And then,

of course, I believe it was the very next day that the Governor called a special session for us to continue this work. Of course, there were some formalities, being a special session, that you have got to introduce your bills and you have got to get them referred to your conferees. And for all practical purposes our conferees just went back to work. And if I recall it correctly we were in session about, I believe, three days. I am not sure whether that special session was three or five days. But it was actually about three days of work on the bill in that special session. During the time—

Q Let me ask you this: Was it a harmonious or an acrimonious conference committee?

A Well, this is one of those questions that can't be answered yes or no because what would be considered to be harmonious by me or any other member of the Legislature might appear to be totally disharmonious to an outsider that is not accustomed to the functions of a conference committee. I

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will say this, we did not have 100 per cent agreement in our conference.

Q Well, let me—that is not real important.

A The major differences are always present.

Q I know that it is not your prerogative, Mr. Jones, but were you satisfied with the composition of the Senate conference committee?

A Was I satisfied?

Q Yes, sir.

A Oh, I had no objection to them. My own feeling, I would take any five Senators you wanted to put on the conference committee and work with them. I hope they would feel the same about the House.

Q Well, did you feel like any of them had somewhat of a vested interest in the final outcome of the

bill?

A Probably no more than some of our House members did. I know that you are always going to have somebody that has a feeling or a strong interest about one particular area. And the same thing is going to be true about the Senate.

Q Well, strong interest is one thing, but a vested interest is something else. Did you not take note of the fact that there seemed to be, as Speaker Mutscher put it, lack of geographic balance in the Senate conference committee, plus the fact that I believe four out of the five have

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been speculated about publicly as being aspirants to Congressional offices?

A Well, until you mentioned it I hadn't even given it a thought as to where they came from. Even at the time they they were appointed I didn't—it may have been that I was too tired to evaluate people, but I wasn't trying to evaluate the people, I was just trying to get the bill worked out.

Q Did Speaker Mutscher or Lt. Governor Barnes address the conference committee, either formally or informally?

A We—I think on the last day we had both of them there because we were at the point of trying to decide how far we should or should not go on compromise. I know the—I can speak for my personal contact with the Speaker on it, what came out as the final conference report, and I gave as my opinion of what we should compromise, whatever our differences were then, I told him what my recommendation would be and asked if he had any objection to it. This is a courtesy that you show to your chief officer. And I think, this may not be the exact wording of it, but I think this is pretty close, Speaker Mutscher said, "Well, that

is why you are chairman and why you have been on the conference committee. It is up to you to decide, you know, this sort of differences, and whatever you decide is certainly all right—if that is

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what the rest think."

Q Is it your testimony that Speaker Mutscher at no time during the regular session or the special session made any suggestions as to the form of the bill?

A That is right. You are talking about did he say there are certain things you can or cannot do?

Q Yes, sir.

A I don't recall it if he did. It is outside my recall and I think I would remember it.

Q Do you recall Lt. Governor Barnes so doing?

A Well, of course, the Lt. Governor—the discussion that he was involved in, as I can recall it, at conference time, he and Clyde Haynes were involved in some discussion. It was relative to the Trinity—oh, Clyde kept referring to the Trinity River Historic—something that he thought a bunch of counties contiguous to the Trinity River ought to be in the same district. And we were—

Q Is that the one he had discussed in the press as being interested in as being a candidate for?

A Yes, this is an area that he—and once again I guess if there was any interest, he and Charlie Wilson were interested in the same area. They were both very strongly interested but in opposite positions on it at that point. There was a lot of discussion that last night. I suspect

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it got a lot of play because it was the resolve that finally resolved the differences. That was one that we were still hung up on. And we finally, as I recall it, we accepted whatever the Senate recommendations were

on that particular district and changed it.

Q What in-put did the Lt. Governor have in dissolving this particular situation?

A Well, his—he was present there and I don't know how to describe it except to say that any time you have a conference committee functioning I think when your Speaker and Lt. Governor come on the scene they will certainly be considered and they will have some commentary. And I think generally we were talking in that line of terms, that we needed to settle this thing because we were going to prolong the special session and it was costing X number of dollars. He had some commentary. He and Clyde Haynes were very much at odds about how much difference it would make if you put in one or two counties and you took out one or two counties along this—maybe it was the Sabine River. It was some river. I am not familiar with their rivers in East Texas. But it was some river basin that for some reason the people over in that area thought it inherently urgent that they be kept together. And they had some comments, which I am sure were true. I think

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one statement was made that if you took every river basin and tried to keep everything that was related to it that you would extend one district all over Texas because of the tributaries that feed in. But I would say his in-put, and this is my evaluation of it was—it was important but I don't think it was of paramount importance. I think we would have had the same differences and probably would have reached the same solution had we not had either of the two there.

Q Well, what you are saying, if I can understand correctly the shape of this district, was a matter of contention? If it had been shaped one way it would have favored Senator Wilson and if it had been shaped

another way it would have favored Representative Haynes?

A Well, this was their opinion. I didn't share in it because, you know, when you take 466,000 people—I don't even recall the total population of the two or three or four counties involved. But in my opinion I doubt that it would make enough difference to be more than a drop of water in a pail of water. But they were strong in their opinions that it was significant. I didn't agree with them.

Q What was—was there any discussion, either during the regular session or in the special session, the conference committee, any speculation concerning Congressman Dowdy's

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health or personal difficulties, what affect that might have on the district over in East Texas?

A The only speculation that I recall in that particular area was press speculation, and I don't recall which writer wrote it.

Q Nothing in the committee?

A No.

Q Okay.

A No discussion along that line.

Q Now, would the same be true of any other encumbent Congressman that might be having health problems?

A Right. How that came out, I dropped out a thought provoker one time and somebody picked it up and said apparently that I had presumed that Mr. Dowdy wouldn't run. I had never met Mr. Dowdy at that time. The next one that I dropped out drew his regular district back intact as a thought provoker.

Q Representative Jones, I am almost finished here. I want to ask you about some particular matters that you have been quoted as saying in the press. The Hous-

ton Post quotes you on February 26, 1971, as follows: "Jones said he would certainly listen carefully, however, to the personal redistricting suggestions of his own Congressman, US Representative George Mahon of Lubbock, Chairman

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of the powerful House Appropriations Committee." Do you recall making that statement?

A Well, I am not sure. That may be an exact quote or it may not be, but generally the statement that I made with reference to Mr. Mahon was pointing out that certainly as Chairman of the Appropriations Committee it was important. That the entire State of Texas would receive services if we drew a district which did not disenfranchise him or endanger his reelection. And the second observation I made was—which may have all been in this matter and that may be a summary of the context statement, but being—since I was from Lubbock and he was a Congressman from this area, I certainly didn't want to try to mislead anybody and try to ignore his interest or ignore the interest of this area. So that generally is an accurate summary of the statement I would say.

Q All right. You are quoted in the Corpus Christi Caller on February 28, 1971, as saying: "Federal Courts have insisted that districts be equal in population"—well, it is not a quote, it is a paraphrase. It paraphrased you as saying, "Jones thinks the courts would tolerate a population spread of five per cent between the biggest and the smallest House district and 10 per cent on Congressional districts," which you have already indicated

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that that was your view at that time and still is.

A Yes. I didn't know that they had quoted it anywhere.

Q You are quoted in the Houston Post on February 27, 1971, as saying, that it is not the intention of the House committee, and I am paraphrasing there a little bit, "to gerrymander anyone," and that is a direct quote. They also quote you as saying, "District lines will be set to best evenly distribute population, taking into consideration economic, geographic and cultural ties of the area." Do you recall making that statement?

A This is sort of the general statement that I had made and I think probably I covered that almost in every press area. That is right.

Q You are quoted in the Houston Chronicle on April 6, 1971, as saying that you believe the Congressional district can be drawn that will require no encumbents to run against each other in 1972. This apparently was just after you had returned from a trip to Washington.

A Well, this, of course—the possibility that nobody would have to run against each other would be contingent upon whether or not they wanted to move into a different area because of no residence requirement.

Q What I am trying to get at here, Mr. Jones, I just want you to confirm whether you were accurately quoted in these

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excerpts that I am reading. Again I am trying not to keep anything—if you want to read these that I ask you about feel free to do so.

A That is quite all right. That is a pretty accurate statement.

Q You are also quoted in the same article as saying that you had worked out several options acceptable to each Congressman, do you recall making that statement?

A I don't recall it but I am sure that in our drawing of plans we had several options that each would agree to, but they were not a part of the total plan. Each man said, "This is fine with me." And Mr. Teague's summary was, "I know you have got a big problem, whatever you draw up I am going to live with it and I have no objection to it." And that sort of thing. I probably said that too. Sounds like I was trying to keep everybody happy.

Q Oh, one key thing. I believe I am about through. You, of course, were aware of the deviations from the mathematical ideal district in this bill that was passed by the House during the regular session?

A I don't remember specific figures, but I knew, you know, that they were not all perfect. So I guess my answer would be yes.

Q And you knew roughly what the deviations were, the highest

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and the lowest?

A I couldn't quote them for you now, but I knew.

Q Not now but you did then?

A Yes.

Q Okay. Of course, you worked on the conference committee bill. I take it then that you were aware at the time the conference committee bill was reported out that the tolerance in that bill was wider than the one in this bill passed by the House during the regular session?

A I was probably aware of it at that time, but I don't recall how much difference there was.

Q So it would be a fair statement to say that the House bill couldn't get through the Senate even though it had tighter tolerances?

A Right. And this is the compromise area that we—somewhere we had to work out a compromise

that apparently was upward on the deviations.

MR. FISCHMAN: I believe, sir, that I have no further questions. I thank you.

* * *

(P. 2)

Oral Deposition of

Oscar H. Mauzy

ANSWERS AND DEPOSITION OF OSCAR H. MAUZY, witness produced on behalf of the Plaintiffs, taken in the above styled and numbered cause on the 18th day of January, A. D., 1972, before JAN STROUD, a Notary Public and Certified Shorthand Reporter in and for Dallas County, Texas, in the offices of FISCHMAN, ROSENBERG, KASMIR & PRESTON located at 601 Kirby Building, in the City of Dallas, County of Dallas and State of Texas, in accordance with the agreement hereinafter set forth.

* * *

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DIRECT EXAMINATION

BY MR. FISCHMAN:

Q State your full name, please, Sir?

A Oscar Mauzy, M-A-U-Z-Y (spelling).

Q And you're a resident of Dallas, are you not, Sir?

A Yes, sir.

Q And you're the senator from the Sixteenth—

A Twenty-third.

Q —Twenty-third Senatorial District of the State of Texas?

A Yes, sir.

Q And I believe had the privilege of serving your district during the Sixty-second Legislature?

A Yes, sir.

* * *

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Q Let's see. Senator, among the committees that

you served on at the last session of the Legislature, I believe you did serve on the committee that was concerned with redistricting?

A Yes, sir.

Q What was the proper name of that committee?

A Congressional Legislative and Judicial Committee, I believe.

Q Was it broken down into any subcommittees?

A Yes. Early in the session when the committee was organized, it was decided that since we were going to be considering a House redistricting bill, a Senate redistricting bill and a congressional redistricting bill that we should divide the committee into two subcommittees, one on congressional

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redistricting and one on Senatorial. Because traditionally in the Legislature, the Senate accepts whatever the House writes for a House redistricting plan. The House traditionally accepts whatever the Senate writes for a Senate redistricting plan. And traditionally the congressional bill winds up in conference committee where both houses have a hand in it. I chose to serve on the Senatorial redistricting committee because I had no ambition to go to Congress. I wanted to look after my Senatorial district as best I could. Others, who were interested in going to Congress, chose to serve on the congressional subcommittee.

Q Well, let me ask you this: The lieutenant governor, as presiding officer of the Senate, appoints the committees, does he not?

A He appoints the committees and the subcommittees. I was given my choice by the lieutenant governor, as the other members were, as to which subcommittee we wanted to serve on. And he told me, "If you have got any ambition to go to Congress, let me know now, because I'll put you on the congres-

sional subcommittee." I told him I had no such ambition. I would prefer to serve on the Senate redistricting.

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Q To your knowledge did he offer that same option to all the other committee members?

A Yes, he did. And those who were interested in going to Congress, Senator Jordan and Senator Wilson, so chose to serve on the congressional subcommittee.

Q I believe Senator Patman was also on that subcommittee, was he not?

A He asked to be on that subcommittee, because, as you know, his father is a congressman, Congressman Wright Patman, and he was, of course, interested in trying to help his father get the kind of congressional district that he wanted.

Q Well, Senator, you have alluded in your answer to my two previous questions to wanting to protect your district and I believe you just mentioned that Senator Wilson and Senator Jordan wanted to go to Congress and Senator Patman wanted to look out for his daddy; what do you mean by that?

A Well, all of us knew when the session started that we had the redistricting. And each of us tried to, I think, protect the interest of his area and his own personal, political interest as best he could. I think it's inherent in a legislative body made up of elected politicians

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that you're going to have that point of view asserting itself.

Q How does one go about through the redistricting process, as you say, protecting oneself or preserving one's seat in the particular legislative house?

A The way I went about it was, a soon as the popu-

lation figures became available for the state and for the counties, I first determined how many people are—were required in the average senatorial district of Texas. I then determined what the population of my present senatorial district was. And I was one of the fortunate ones who come from a rural, excuse me, urban district that was overpopulated, so I then had the choice as to which part of the district would not be included in the district the next time around. I then proceeded to draw a plan for my senatorial district that I thought met, first the constitutional guidelines, the equality of population, compact and contiguous and community of interests and in all candor, also, a district with—that I could get reelected in. And I think each member of the Legislature tried to do that for himself.

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Q Well, when you say a district, that you tried—and let me say this, first of all, Senator. Fortunately, the legislative redistricting case is not my can of worms and I'm picking on you by way of illustration and not for any specific motivation and what you're telling me is strictly by way of example.

A Right.

Q So let me ask you this: How does the shape or the composition of your district affect your chances of being reelected?

A Well, there are some areas in my district where I run better than other areas; and therefore, the districts that—the precincts where I get the largest majority, I was most interested in keeping in my district. The areas and precincts where I hadn't done as well in the past and where, perhaps, my voting record was not in keeping with a majority point of view of those areas, I thought were entitled to have a senator who agreed with them more than me.

Q May I say that was beautifully put. And a lot of this stuff sounds—I think we all know what we're talking about, but I think it's useful to get it on the record as a matter of record.

* * *

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Q To your knowledge, Senator, were these same considerations applied in the drafting

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of the congressional districts?

A It was a consideration that—that everyone on the committee took in mind. I was not a member of the conference committee that wrote the actual final congressional redistricting bill, so I—I can't speak as to that. But I do know that we had available to us in the Senate redistricting committee all the demographic, ethnic material to show the ethnic and demographic make-up of each census tract, each enumeration district, and that we also had furnished us by the members of the Senate that I had earlier spoken to the breakdown by precinct in the four big-city counties of Texas.

Q In appointing the committees and subcommittees did the lieutenant governor give any instructions as to what criteria were to be followed in drafting the congressional redistricting bill?

A Yes. I don't remember whether it was at a formal committee hearing or whether it was in informal discussions, but he did indicate that he thought it was very important that the incumbents be retained in office, that their seniority in Congress was meaningful and influential and that wherever possible, that pairing of

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incumbents should be avoided.

Q Did the lieutenant governor mention any other

factors that were to be considered?

A As I recall, population was to be considered, community of interests. I don't recall whether he spoke to the question of compact and contiguous or not. I know we did talk about that in the committee and what it meant.

Q I want to ask you in just a minute what you did talk about in the committee. But, first, I want you to tell me what your understanding was of the term "community of interests"?

A Community of interests to me means several things. First, it's the difference between an agrarian economy and an industrial economy. Obviously, the community of economic interests that exist in Dallas County, Texas, is different from that in Loving County, Texas. The economy is based upon different things. Community of interests to me means urban as distinguished from rural problems. Community of interests to me means racial and ethnic make-up. Community of interests to me means problems of mass transportation in highly densely populated areas and farm-to-market roads in rural areas. It's the total thing that

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goes in to make up the economy and the culture of an area, as I understand it.

Q Was this the same understanding that you had at the time the Legislature was in session?

A Yes.

Q And your colleagues on the committee, would they have had the same understanding?

A No. There was—there was a difference of opinion in the committee that divided, basically, along rural and urban lines. The urban members tended toward the point of view that I have just enunciated. The rural members tended to think in terms of counties as a unit of government and as a—as the basic

unit that you use in putting together the number of people to make up a district; whereas, I think we in the cities don't attach as much significance to county lines.

* * *

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Q Now, with reference to the equality of population, what was the consensus of the committee as to what that meant?

A Well, here again, I was in a minority viewpoint. A majority felt that five per cent tolerance would and had been sustained by the courts and would be in this instance. I felt that, as I read the cases, there was no such thing as de minimis in population, that you had to be as precise as you could be, and that under the holding of the Missouri case, I believe it was, if the plan that was adopted had a greater population variance than a plan that had been rejected, that you were in trouble with the courts.

Q And you have just indicated that that was a minority viewpoint on the committee?

A Yes. A majority of the committee felt that five per cent, as long as you were within five per cent, you were safe.

Q Well, what do you mean by "five per cent"; is that the deviation between the smallest—

A From top to bottom.

Q The most overpopulated and the most underpopulated, the total spread would be five per cent?

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A Yes.

Q And that figure was bandied about in various committee, either formal, meetings or working sessions?

A Both, as I recall.

Q Well, I'm trying to get at what the approach of

the committee was, to your knowledge, and I don't know how to do it other than to ask you a leading question, which I'll proceed now to do.

A Well, perhaps, I can help you by volunteering what I—what it was my opinion was of prime consideration. There's a tradition in the Legislature that the Senate redistricts the Senate, that the House redistricts the House and that the conference committee redistricts the Congress. I had gone through this in '6 when we redistricted the congressional districts. And that the purpose of that is so that the lieutenant governor can work his will as to the Senate conferees and the Speaker can work his will as to the House conferees. That's common knowledge among the members of the Legislature.

Q And did that, in fact, occur in this case?

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A Yes, I think so.

Q What impels you to that conclusion?

A Well, we went through this congressional redistricting fight during the regular session. The House sent us a bill that went to committee and it was completely re-written in the Senate committee in the form of a committee substitute, which eventually passed and which the House refused to concur in and then which went to conference. And the conferees haggled for, as I recall, four or five days or a week before the regular session adjourned and were unable to agree on a bill. The point of contention was basically between the lieutenant governor on the one hand as influencing the Senate conferees and the Speaker on the other hand as influencing the House conferees. And it came down to two basic points of disagreement. The Senate conferees were stuck hard on the proposition that the East Texas district would be the way Senator Wilson wanted it drawn, he being

a Senate conferee. The House conferees were stuck hard on the proposition that that district would be drawn the way Representatives Haynes wanted it drawn, he being a House conferee. And the second point of contention was where the lines would fall

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in what became the Twenty-fourth or Mid-Cities District here in Dallas and Tarrant Counties.

Q What was the contention with regard to that?

A Well, the contentions were that we were to draw the line—the committee was to draw the line in the Fifth Congressional District in a way that Congressman Cabell wanted them. They were to draw the lines in Tarrant County the way Congressman Wright wanted them drawn. They were to draw the lines for the Third Congressional District the way Congressman Collins wanted them drawn. They were then to give Congressman Teague in the Sixth District whatever population was necessary on the south ends of Dallas and Tarrant Counties to flesh out his district. And what was left was to be the Twenty-fourth District.

Q To get back to my leading question awhile ago, you have given me a lot more to go into, but what I'm trying to get at is this: State whether or not it was the modus operandi or intention of the committee, to your knowledge, that they would take such steps as were necessary to protect the seats of the incumbent congressmen and if in doing so, they came within five per cent top to

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bottom, they felt it was all right?

A Yes, I think that was the prevailing majority point of view.

Q That's what I'm trying to find out. Then their basic approach then, was to take care of the congress-

men and then we'll see if it fits the numbers?

A To take care of the congressmen and to make it fit the numbers within five per cent, I think would be a more accurate way to put it.

Q Now, we might as well pursue this point while we're conveniently there. Going back for just a minute to your answer wherein you stated that the difficulty in the Twenty-fourth District was that Congressman Cabell wanted his drawn a certain way and then you enumerated on Congressman Price, Congressman—

A Wright.

Q —Congressman Wright, Congressman Collins and Congressman Teague, how did you know how they wanted their districts drawn?

A Two ways. First, five members of the House redistricting committee and four members of the Senate redistricting committee went to Washington to interview the congressional delegation

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in March. As I recall, it was March the 30th and 31st. Governor Smith loaned us his plane and his pilot. We left Austin at 6:00 one morning and flew directly to Washington. We met with the congressional delegation for lunch. Then the afternoon was given over to us to meet with individual congressmen to go over what they wanted done with their individual districts.

Q I take it you were on that trip?

A Yes. Then the next morning we again met with—well, let me go back for a minute. The luncheon, as I recall, was for the Democratic members of Congress. Then the next morning, there was a breakfast for all of the members of Congress from Texas, both Democratic and Republican, and to meet privately further and then come back to Texas.

Q What transpired, Senator, at this luncheon

meeting?

A Not much, really. Everyone was glad to see everyone else and everyone wanted to do everything to please everyone else. It was a very congenial luncheon. But there was nothing, either officially or unofficially, done there, which, I suppose, is normal if—considering the context of the meeting. I, then, personally went over to

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Congressman Patman's office. He turned his office over to us to meet with the individual members of Congress. As I recall, Congressman Roberts came by and met with us privately. Congressman Wright came by and met with us privately. Congressman Roberts came by and met with us privately. Then we went over to Congressman Teague's office and met with him. Congressman Eckhardt came by and met with us privately. And the next day, we met with two or three others. Congressman Purcell. And I'm—I'm sorry. That's all I can remember specifically.

Q Do you remember Congressman Cabell meeting with you?

A No. Congressman—I talked with Congressman Cabell at the luncheon that we had and he and I had talked on the phone prior to that time. He told me of his preferences and then I asked him to reduce it to writing and mail it to me. He then sent his three alternative plans in rank and preference to him as to how he would like his district lines to be drawn since he was also in the fortunate position of being overpopulated and having to cut down the size of his district here in Dallas County.

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Q What specifically did he recommend to you; do you recall?

A Yeah.

Q Or as specifically as possible?

A My—his first preference was to draw his—the southeast—southwest line of his district at the Trinity River. Under the old redistricting plan, he had ten precincts in Oak Cliff that were in his congressional district that were in my senatorial district. And he was overpopulated and he made the point that it would be logical to—to lop those ten precincts off and just stop at the river.

Q Did you ever have occasion to discuss with him the voting patterns or the socio-economic composition of those ten precincts?

A Yes. He and I were both familiar with them. They're predominately black precincts that he always carried in November, but never carried in the primary.

Q And he was aware of that?

A Yes.

Q As a matter of coincidence, they were in a convenient place to lop them out of his district?

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A I think it made sense to take them out. Because, first of all, Oak Cliff was cut up by taking those ten precincts out of Oak Cliff. I loo kupon Oak Cliff as a recognizable political subdivision. Although it's part of the city of Dallas, we who live in Oak Cliff tend to think of Oak Cliff as part of the city of Dallas that's recognizable for its unique problems. And the river, of course, is another reason. But I, personally, was not adverse to doing it, because I was trying to create a congressional district where Oak Cliff would all be together rather than being divided between congressional districts.

Q Well, isn't it a fact—I don't mean to belabor this point, Senator—but those ten precincts would tend to have less of a community of interests with the rest of Oak Cliff than they would with the near South

Dallas area?

A That has been true in the past. As the black population migrates west in Oak Cliff, I think it will be less true in the future.

Q What other specific discussions do you recall up there in Washington, Senator?

A Well, I remember Congressman Roberts came by and told us that he had in the past had a

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portion of the northeast corner of Dallas County up around Garland, but he would be just as happy not to have that in his district. Congressman Teague told us that he was going to have to expand his district further into the Dallas and Tarrant County areas to get the necessary population, because the rural counties in his area were declining in population; whereas, the south ends of both Dallas and Tarrant County were growing in population.

Q Do you feel that there is a community of interests between the areas of Dallas and Tarrant Counties in Congressman Teague's district with the remainder of his district?

A No, I, personally, do not. And that's one reason I voted against the bill. I would have preferred and I introduced an amendment that would have created five congressional districts in the Dallas-Fort Worth standard metropolitan statistical areas.

Q How were these views of these congressmen expressed to you; in other words, did you get a reading as to whether they were concerned; did they express it to you in an emphatic manner or how was this done?

A Well, it was very congenial. Most of

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the members of Congress had either served in the Legislature or in some other public office before they

were elected to Congress and they understood that the Legislature had to draw the lines. What I'm saying is that people who have been through redistricting fights before kind of know how to talk to each other. And there was no threat or belligerency or anything of that kind. Each of them indicated their preference to us. And sometimes, we would ask why and sometimes we wouldn't, truthfully.

Q Well, being privy to some of these conversations and seeing the shape of the final bill, can you say that the final bill did, to a great extent, take these preferences into account?

A Yes. I remember, specifically, I wondered why Congressman Mahon had not come by, because the lieutenant governor had indicated to us and the House members on this trip had told me that the Speaker had indicated to them that it was very important that Congressman Mahon's lines be drawn the way he wanted them since he's chairman of the House Appropriations Committee and that committee and his chairmanship is very important to Texas. But he never did come by to see us.

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It's common knowledge that he was in touch with both the Speaker and the lieutenant governor by telephone. As a plan would be devised, he would be advised of it, particularly as it affected him. One of the bills that was orginally, I think, passed by either the House or the Senate, I can't remember which now, had Congressman Mahon redistricted in with Congressman Price, I remember. The district ran from Lubbock up the west side of the Panhandle. And that caused a great deal of concern.

Q That plan, I take it, was not ever seriously considered?

A I think it may have passed one house or the

other, but I—I truthfully don't remember. I'm sorry.

Q Now, I want to ask you: You have some familiarity with the various plans that were passed?

A Yes.

Q You also have some familiarity with some of the plans that were introduced?

A Yes.

Q Did you, in fact, introduce any plans?

A Yes. I introduced both in the

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committee and on the floor of the Senate a plan to create five congressional districts in the Dallas-Fort Worth SMSA.

Q SMSA being Standard Metropolitan Statistical Area?

A Yes.

Q Can you tell us something about those, the population variances, the general geographical parameters?

A I can give you the legal description of it. I'm sorry. I thought I still had the population figures, but in going through this, I could not find. My recollection is that within the, I believe it's, ten counties that comprise the Dallas SMSA and the Fort Worth SMSA we were about forty thousand short on population for five congressional districts. It was my judgment that since we were a faster-growing area that that would be permitted under the holding in Kilgarlin. And so I then introduced a plan that would have created those five districts in those ten counties. And I have it here in the form in which it was submitted on the floor of the Senate. It then reshuffled the rest of the state to make it conform with this. And this is it if you want it.

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Q Is this an extra copy?

A Yes.

MR. FISCHMAN: Have that marked, please, Ma'am.

(Whereupon instrument was marked P-1 and is hereby made a part of this deposition.)

Q Senator, you have just handed me an instrument consisting of three typewritten pages, which the reporter has marked as Plaintiff's Exhibit Number One. I'll ask you, Sir, if you are able to identify that as a duplicate original or a copy of the plan that you introduced that you have just been discussing?

A Yes, it is. This is the floor amendment that I offered on the floor of the Senate to House Bill 782 during the regular session.

Q Did you introduce any other plan, Senator?

A This next is a description of the five congressional districts within that ten-county area by census tract number that we had drawn to meet the equality of populations item.

MR. FISCHMAN: And I'll have her mark this.

(Whereupon instrument was marked P-2 and is hereby made a part of this deposition.)

Q You have just handed me a handwritten instrument consisting of three legal-size pages, which the reporter has now marked as Plaintiff's Exhibit Number Two, and you're able to identify that as what, now?

A This is a Xerox copy of the detailed description of the lines within the ten-county area to contain five congressional districts, marked District A, B, C, D and E, which I introduced both in the committee and on the floor of the Senate.

Q That goes with Plaintiff's Exhibit Number One?

A Yes. I had also introduced in the committee a plan which was forwarded to me by a gentleman named Buerger, B-U-E-R-G-E-R (spelling), from Lubbock, who had written—excuse me, from Irving,

who had written me that there was really nothing to congressional redistricting and he sent me a roadmap of Texas where he had drawn the lines to redistrict the state into twenty-four congressional districts.

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Q Did you run population figures on this, Senator?

A Yes, I did and they were also run for me by Dr. Luther Hagard, H-A-G-A-R-D (spelling), who is a professor of government at the University of Texas in Arlington and who had worked with me in the old Kilgarlin case in drawing legislative redistricting proposals.

Q And do you have a summary of that plan in typewritten form, as opposed to just this map?

A Yes. I have here a—a statewide map in a summary form that Dr. Hagard sent to me.

Q This consists of one, two, three, four, five pages, one of which, the first of which is a cover letter, the second of which is a map of the state which seems to be outlined into twenty-four congressional districts and the remaining three pages seem to list the counties and portions of counties in each district according to this plan; is that correct?

A With population figures, yes.

Q With population figures.

MR. FISCHMAN: Could I have this marked, please?

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(Whereupon instrument was marked P-3 and is hereby made a part of this deposition.)

Q Do you want to keep the original?

A No. That's all right. I can get it back after trial.

Q I'll hand you back what you have just handed me and which I have just described for the record and has now been marked as Plaintiff's Exhibit Number Three and ask if you're able to identify that as

the so-called Buerger plan?

A Yes, this is the Buerger plan as sent to me by Professor Hagard.

MR. FISCHMAN: Off the record just a second.

(Off-the-record discussion.)

Q (continuing by Mr. Fischman) I have got in my hand a map which appears to be one of the oil company maps of the state and also has some smaller maps of the major metropolitan areas and it has some blue lines on there, purple lines on there outlining what appear to be congressional districts, each of which is numbered, and which you gave to me out of your files; is this what Mr.

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Buerger sent to you?

A Yes, it is.

Q And that was the sum total of what he had done. And then did you receive this from Dr. Hagard unsolicited or did you refer it to him for consideration or what?

A As I recall, Mr. Buerger sent it to me and then I asked Dr. Hagard to—to run it through to see how it came out on population. And I believe Plaintiff's Exhibit Three is the summary that Dr. Hagard prepared based upon the roadmap.

Q And you did offer that as an alternative bill on congressional redistricting?

A I don't believe I ever formally had it typed up in bill form. I—one day when we were having a committee meeting, I showed the other members of the committee the roadmap and I said, "This—this is a plan that has been sent to me by a fellow in Irving and it looks to me like it has got a lot of merit." But it was pretty quickly determined that a majority of the committee didn't think it had merit and I knew I couldn't pass it, so I never went to the trouble of typing it up.

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Q What fault did they find with it, Senator?

A Well, basically, they said it paired too many incumbents. As I recall, it paired six incumbents into three districts, but I, again, I'm going on recollection.

Q Was there any other objection voiced to it?

A That's the only one I can recall.

Q Were there other plans submitted, not necessarily—or considered by the committee—not necessarily those that you prepared or had anything to do with?

A As I recall, there were three or four amendments offered in the committee, all of which were rejected. And I believe those same three or four were offered on the floor and were rejected there, also.

Q Do you remember any specific reasons for the rejection?

A I—I remember what the members said as to why they were opposed to them. I don't know that those were the real reasons. I introduced, as I say, I introduced my plan, which was rejected, both in committee and on the floor. Senator McKool

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had a plan that he introduced that was rejected, both in committee and on the floor.

Q Was that the so-called umbrella plan?

A I don't recall that terminology. Mine was called the fish-hook plan or something, because it looped around Tarrant County and took in Johnson, Parker, Wise and Denton and then around to Rockwall. And Senator Hall specifically objected to that. I don't recall, really, what Senator McKool's plan did.

Q And is it fair to say that these plans were rejected in large part because of the pairing of incumbents?

A I think so. The—the committee substitute had

been drawn up and worked out by the subcommittee on congressional districts. And as I understand it, it had been checked with and cleared by various people. And this was what we were going to run with in the Senate. As I recall, there were ten of us who voted against it and twenty-one voted for it, I believe.

Q Are you familiar at this time with plan, or with House Bill 782 that was passed, I believe, by the House at the regular session?

A Generally familiar with it. I don't

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recall the details of it.

Q Do you recall the deviation from top to bottom on that plan, Senator?

A If I remember correctly, it was about two and a half to three per cent.

Q Does that two and a half sound right to you?

A I think somewhere in that area, yes. I remember the House plan was—had less population deviation than the Senate substitute to the House plan.

Q You're aware of that now; were you aware of it at the time during the session?

A Yes. And I was also aware that House Bill 782, as passed by the House, had less population deviation than Senate Bill 1 of the special session, which eventually became the congressional redistricting bill.

Q And were your colleagues in the Senate aware of that?

A Yes.

Q Was the lieutenant governor aware of it to your knowledge?

A I'm sure he was.

Q And the Speaker?

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A I'm sure he was, too.

Q And I know you don't have too much business

down at the other end of the Capitol, but was Representative Jones and his committee aware of the—

A Yes, they drew the original House plan, House Bill 782, and—and they rejected the Senate substitute for House Bill 782, so I'm sure they were very familiar with it.

Q Now, at the special session the Senate passed a bill and sent it to the House and they passed a House substitute, which was, in essence, the same plan as the 782 that had been passed by the House during the regular session; is that correct?

A Yes.

Q And it was also two point five?

A That's my recollection, yes.

Q And yet, both 782 and the House substitute to the S Bill 1 passed by the Senate at the special session were both two point five off?

A Yes.

Q Can you tell me, Senator, why the conference committee approved and sent through the

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legislative process back to each chamber of the Legislature a bill that was either four point one or four point nine per cent off?

A The way the conference committee report on Senate Bill 1 was presented to us was that this was the only bill that the conference committee had been able to agree upon. If I may go back in history, during the approximately the last week of the regular session, the conference committee had been meeting on—on House Bill 782 and had been unable to come up with a conference committee report, primarily because of the congressional district in East Texas in which Senator Wilson and Representative Haynes were interested and the Mid-Cities District in the Dallas-Fort Worth area. I'm told that the conference committee

during the special session meeting on Senate Bill 1 met all night long and finally hammered out Senate Bill 1, the conference committee report on Senate Bill 1, which basically was the Senate plan.

Q Well, what I'm trying to get at is this: Why did the conference committee reject a bill that was only two point five per cent from top to bottom in favor of one that was four point

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one?

A Basically, I think the reason is—is because the Senate conferees and the lieutenant governor wanted Senator Wilson to have a congressional district to run in and persuaded the House conferees to adopt that plan as distinguished from the plan Representative Haynes had that he wanted to run for Congress on.

Q Do you recall what 782 did as far as pitting one incumbent against another?

A I'm sorry, I don't, no. I think it did pair some incumbents, but I don't—I just don't remember how many.

Q Well, I gather from your testimony thus far that the basic hassle in the conference committee was not the fact that incumbent, protecting incumbents was a problem. I think everybody agreed on that. And it turned out that the basic problem was the matter of political compromise or expediency?

A Yes, I think that's—that's a fair statement. Let me add one other thing: I never considered the pairing of incumbents to be important, because as I understand it, you don't have to live in a congressional district to run

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for it. And so to me when you talk about pairing incumbents, first of all, I don't think it's a legitimate consideration. Secondly, I don't think it's a legal con-

sideration, because if I, as a citizen of Dallas County, want to run for Congress from the El Paso district, I can do so. There's nothing in the law to prohibit it, if—if I understand the law correctly.

Q Let me see, now. Representative Jones in his deposition testified that House Bill 782 had no chance of passage in the Senate?

A I think that's true.

Q And would you tell me—again, I'm trying not to lead the witness—what the reason was?

A Well, there were a number of reasons. I would not have voted for House Bill 782 because it totally decimated Oak Cliff. As it turned out, Senate Bill 1 did, also. A couple of the rural senators didn't vote for it because their congressman was adversely affected by it in their judgment. I think that most of the members of the Senate were sympathetic to the congressional ambitions of Senator Wilson and Senator Jordan and they didn't like it. There—there are many

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considerations, I assume, that dictated to each member whether he would vote for it or against it. Those are some that I know of.

Q Of the bills that were introduced and the various amendments and so on, is it your view that SB 1 as passed by the conference committee was the only bill that could get through the Senate?

A No, I don't agree with that. I think SB 1—at the time, everybody wanted to get out of that special session and get home. But—but I think it could have been possible to—and frankly, I was in favor of hanging up that special session and coming back until we got, what I considered to be, a realistic bill. Under the press of the special session, I—I do think Senate—the conference committee report on Senate Bill 1 is the

only one that both the House and Senate were willing to pass at that time in history.

Q And I gather that the willingness or unwillingness was not predicated solely on factors of population?

A I don't think so. I think what it came down to was that the Senate finally forced the House to cave in on the conference committee

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report on Senate Bill 1 when they had not been able to force the House conferees to cave in on House Bill 782 during the regular session.

Q Senator, you indicated earlier in your testimony that the amendments that you introduced as reflected by Plaintiff's Exhibits One and Two to your deposition took into account the fact that urban areas were growing at a substantially faster rate than other areas in the state?

A Yes.

Q And that you could underpopulate those for that reason?

A Yes.

Q Do you know of any systematic effort that was made to make those determinations with respect to SB 1?

A As far as I know, they were not made.

Q Was any effort, to your knowledge, made on a statewide basis to take the growth rates and growth versus declining factors into consideration?

A Not to my knowledge.

Q Other than in the amendments that you

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introduced as reflected by Plaintiff's Exhibits One and Two, do you know of any effort made to consider the percentage of non-voters and transient population in the final, in SB 1?

A No, because at the time that Senate Bill 1 was passed, the registration bill had been passed earlier that required that college students would be required to register at the residence of their parents rather than where they were going to school. That has since been held unconstitutional. But at the time, I don't think—

Q Some allowance for transient population, at least for students, was not a factor at all in drawing the congressional bill?

A That's right.

Q And do you know if any study was made with reference to the transient military population?

A Not to my knowledge.

Q And the same would be true with respect to studying the percentage of population that was under the age of eighteen and non-voters?

A No, I don't think—again, not to my knowledge, it wasn't done. I do know that the voting patterns of precincts, the percentage of

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turn-out of registered voters and those kind of things were considered by all of us in both informal discussions and in committee hearings.

Q This would have had to do with not necessarily how many voters, but how they voted?

A Yes.

Q Did you attend all the committee meetings on congressional redistricting?

A Yes.

Q How many were there?

A There was an organizational meeting and I don't believe there was, then, another full committee meeting until we had the House Bill 782 before us. Then—

Q How—excuse me. Go ahead, Sir.

A Then I believe there was a third meeting of the

committee when the committee substitute for House Bill 782 was voted out. And then I believe there was one meeting of the—a pro forma meeting of the committee during the special session in which Senate Bill 1 was reported out.

Q Were these committee hearings devoted to debate on these various measures?

A No. As I have indicated, the first

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meeting was just an organizational meeting at which the two subcommittees were named. The second meeting was for the purpose of hearing House Bill 782 and referring it to the congressional subcommittee. The third meeting was for the purpose of reporting out the committee substitute for House Bill 782. And the fourth meeting was to report out Senate Bill 1 in the special session. Altogether, those four hear—those four committee meetings didn't last an hour and a half.

Q Well, when and how was work actually done on these bills, the best you can tell?

A It was—it was done basically by Senator Word and his staff. He was the chairman of the committee. He had an office set up for the committee next door to his Senate office in the basement of the Capitol building where all the census information was available and all the maps and the staff of the committee were there constantly working on plans, both senatorial and congressional.

Q How much time did the committee get to consider the bills that were voted on?

A As I have indicated, the four meetings, altogether, I don't think consumed an hour and a

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half.

Q Well, would you be given a copy of the bill in

advance of the committee meetings?

A No. It's normally laid out at the committee meeting. The committee is called to order and the clerk passes out the copies of the plan.

Q And then you're expected to vote on it?

A Yes.

Q Without any time to study it?

A Well, most of us were checking in with the staff down at the basement from time to time, I was, to see where the lines were being put. But there was—there was no formal presentation or—or debate as such on it in the committee. Again, if you will understand, it's generally assumed by everyone in the Legislature that the congressional bill is always going to wind up in a conference committee; and therefore, what's done on—in committee or on the floor is largely form and not substance.

MR. FISCHMAN: Let's take just about a minute break.

(Whereupon a short recess

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was taken, after which the following proceedings were had.)

Q (continuing by Mr. Fischman) Let me cover one more thing with you, Senator, and then I believe I will be through with my direct examination. You indicated very early in your testimony here today that concern for geopolitical boundaries, particularly county lines, was a matter of importance to the rurally-oriented members of the Legislature. Can you say to what extent that was a factor that was considered?

A Well—

Q With reference to the congressional redistricting bill?

A I think the rural members proceed from the premise of county lines and they—they tend to the

point of view that you start in the rural areas and redistrict in toward the population centers. So to that extent, county lines are very important to them. As best I understand their position, that's what it is. Those of us who think that you ought to start in the urban areas and work out, I don't think pay as much attention to county lines.

Q Do you recall any instances in regard

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to SB 1 where urban population was used to flesh out rural districts?

A Oh, yeah. Congressman Teague's district, of course, is—was a classic example both in—in '67 redistricting and this year's. And as I recall, I believe that's also true of Bexar County, but I'm—

Q Well, I was going to make reference to the district in which Congressman Fisher is presently the incumbent, I believe that one stretches all the way from San Angelo to the northwestern quadrant of Bexar County?

A It used to, I know. I don't—I don't recall the details of this bill that was passed this time as to whether it does or not.

Q Do you know the reason why it does that?

A To furnish the necessary population to fill out his district.

Q Would the same thing be true of Representative Kazen's district, the one that stretches from Laredo up through the southeastern quadrant of Bexar County?

A Yes.

(Off-the-record

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discussion.)

Q (continued by Mr. Fischman) Here's what I want to ask you, Senator. According to SB 1, the Six-

teenth District, El Paso district, is something in excess of eleven thousand overpopulated; do you know what the reason was for that?

A No, I don't. The El Paso district, obviously, when you start in El Paso you have got but one way to go and that's east. But why the line was drawn where it was, I do not know.

Q What about, the Fifteenth District is some eight thousand underpopulated; do you know what the reason for that was?

A No, again, I don't. Again, I see it's—you start at the bottom of Texas and, obviously, there's only one direction to move and that's north.

Q You don't recall that any specific allowance was made for population trends in either of those districts?

A Not to my knowledge.

Q Would you, if you know, know whether the Sixteenth District is a growth or a loss area?

A I'm sorry. I would have to look at

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the figure. I don't know right off the top of my head.

Q And would your answer be the same with respect to the Fifteenth?

A Yes. I'm not familiar with that area.

(Off-the-record discussion.)

Q (continuing by Mr. Fischman) Senator, my last question is this: SB 1, I think we're all agreed, is four point one per cent deviation from top to bottom. After the bill was finally laid out in the conference committee, was any effort made, to your knowledge, to adjust it to come to closer tolerances?

A Not to my knowledge.

Q Did you have a good knowledge of what the conference committee was doing?

A Well, yeah, we all kind of—those of us who

weren't on it were kept informed by those who were. And again, the basic fight over there was, as I understood it, was between Senator Wilson and Representative Haynes as to the East Texas district and what was going to happen in the Dallas-Fort Worth area for the new district.

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MR. FISCHMAN: I believe with that, I'll pass the witness.

MR. QUICK: Can we take a small break?

MR. FISCHMAN: Sure.

(Whereupon a short recess was taken, after which the following proceedings were had.)

CROSS-EXAMINATION

BY MR. QUICK:

Q Senator Mauzy, I want to backtrack a little bit to clarify in my own mind some of the things that you mentioned earlier. You were not a member of the Senate subcommittee that was directly concerned with congressional redistricting, is that correct?

A Yes, sir, that's correct.

Q Just exactly what did you, what relation to that subcommittee did you have?

A Well I, as I indicated on direct examination, I would go by the committee's office from time to time and visit with Greg Hooser and the others who were working on the plans. At various times, different people would send me proposed plans for—particularly for Dallas

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County that I would take down to the committee. I talked with the members of the subcommittee on their regular basis as to how they were coming, whether it looked like we were going to be able to get a bill and that sort of thing.

Q Now, where was this subcommittee office?

A It was down in the basement of the Capitol adjoining Senator Word's office just as you get off the elevator.

Q What kind of reception did you receive from the subcommittee when you would present these various plans or parts of plans that you talked about?

A Well, I think that I was accorded the same courtesy in the hearing that any other member of the Senate was by the committee.

Q Did any member of the subcommittee or Senator Word as chairman of the Senate redistricting committee, generally, have any discussion with you as to why some of our proposals were not acceptable or were acceptable, as the case may be?

A Yes. From time to time, we—all of us would discuss different plans informally.

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And basically, there was just a difference of opinion about the necessity of preserving incumbents. As I indicated on direct examination, to me that was not a valid consideration. A majority of my colleagues disagreed with me.

Q What was Senator Word's attitude toward that?

A He thought that, as I recall, where a possible incumbent should be preserved because of the seniority they had built up in Congress and for the other reasons that we talked about earlier.

Q Did any of your constituency ever contact you with regard to the protection of incumbents that might be in your particular senatorial district?

A I remember I got a resolution from the Oak Cliff Chamber of Commerce on congressional redistricting that wanted Oak Cliff preserved as a congressional—as a unit within a congressional district. Oak Cliff does not have enough population to form a congressional district by itself. And it also asked that

Congressman Teague's part of Dallas County be preserved, which I thought was a little bit inconsistent, personally. They—

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that's the only resolution I recall receiving. Various constituents would call me in Austin or see me on the week ends when I was home about they hoped that this plan or that plan could be adopted.

Q With regard to the Oak Cliff resolution, what was your attitude toward it, once again?

A Well, as I say, there was a little inconsistency in the resolution in that they asked that all of Oak Cliff be contained within one congressional district, but at the same time they asked that whatever portion of Dallas County had to be added to Congressman Teague's district to bring it up to population, that that be done. And the two were inconsistent. You couldn't do both.

Q Did you transmit this resolution and your feelings with regard to it to Senator Word or any member of the subcommittee?

A The resolution, as I understood it, had been mailed to each member of the Senate, not just to me.

Q Did you have any discussions with Senator Word or any member of the subcommittee with

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regard to that resolution, that you recall?

A I believe so. As I remember, Senator Word and Congressman Teague and I discussed it together in Congressman Teague's office when we were on the trip to Washington.

Q And what was the nature of that discussion, if I may ask?

A Well, I pointed out that—that the resolution was inconsistent, that Oak Cliff could not be preserved as a unit and at the same time Congressman Teague's

district filled out in Dallas County. That if Oak Cliff was going to be preserved as a unit and if Congressman Teague's district was going to have to be filled out from the Dallas-Fort Worth area, it would have to come from the Tarrant County side, rather than the Dallas County side.

Q I suppose what I'm getting at is the nature of the constituency's feelings about redistricting and whether or not this was conveyed to the various members of the subcommittee, and I gather from your comments that this was done on occasion?

A Yes, I think that the members of the subcommittee sought as much information as they

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could get from the other members of the Senate about how the lines should be drawn. I felt that the members of the Senate committee were trying their best to do their duty.

Q You don't feel, then, that the actions of the subcommittee in voting out Senate Bill 1 were in any manner trying to force a bill down the Senate's throat, if I may use those expressions?

A No, because it's like any other bill that comes out of committee, it's going to have to get sixteen votes on the floor. And the other factor, we all knew that the congressional bill was going to wind up in conference committee, anyway. And frankly, nobody was of much mind to try to make a major production out of shaping or changing that bill on the floor, because we knew that eventually we would be called upon to vote yes or no on a conference committee report that we would not have the opportunity to try to amend.

Q In other words, the work of the conference committee would be generally given considerable weight, if not final weight?

A Well, Jim, you have been around and as you know, the saying down there is that the conference committee report is good if it can get

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sixteen votes in the Senate and seventy-six votes in the House. And normally, they don't report a bill from the conference committee until they have assured themselves that they have the votes to pass it.

Q With regard to Senate Bill 1 when it was finally voted on in the Senate and in the House on final passage, was there any discussion of that bill?

A As I recall, there was very little, if any. Enough—we had been through this fight before in the regular session. Everyone pretty well knew whether they were for it or against it. Everyone pretty well knew why they were for it or against it. I remember, I believe it was Senator Hall who voted against it because it, as he said, decimated the old Fourth Congressional District. As I recall, Senator McKool and Senator Harris and I, all three, voted against it from Dallas County, because we thought Dallas County had been decimated. I think Senator Kennard from Tarrant County voted against it for the same reason. Each of us knew pretty well and—and it was the last day of the regular session and—and the feeling that everybody wanted to get through

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and get home.

Q I believe you stated earlier that it was your idea that there was no systematic effort to apply population trends to the various congressional districts set out in Senate Bill 1. What leads you to that conclusion?

A I said not to my knowledge. At the time we had our first hearing in the Senate committee on congressional districts, I had raised the point that under the

Kilgarlin Case I thought that it was permissible to take into account population trends. A majority of the members of the committee at that time indicated they disagreed with me. That's the only knowledge I had that—how the majority felt about it.

Q Well, with regard to the six congressional districts that take in part or all of Tarrant and Dallas County, do you know what the variance in population of those six districts would be; do you have any knowledge of that?

A Of the districts that presently take in all or part of Dallas and Tarrant County?

Q Yes, sir.

A Not off the top of my head, no.

Q Do you have any information about

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the population trends in that Dallas and Tarrant County area?

A I'm generally familiar with them, yes.

Q What would that be?

A That the Dallas-Tarrant County area is growing at a faster rate than the state as a whole.

Q If systematic population growth trends were being applied to these six districts, all or a part of which encompass Tarrant and Dallas County, it would be reasonable to assume, I take it from your testimony, that these six would be underpopulated with relation to the norm of four sixty-six five thirty?

A Well, certainly, those congressional districts that are totally contained within Dallas and Tarrant County, that would be true. I think it would also be true as to Denton County and Collin County, because these counties are growing faster than the state as a whole. They did from '60 to '70. And with the new regional airport and based on every projection I have seen, will continue to in the decade of the '70's. Now,

I think some of the rural counties, for example, in the Sixth Congressional District, Congressman Teague's, in

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the southern end of that district, are declining in population and have been in the decade of the '60's and will continue to in the decade of the '70's.

Q Representative Teague's district, Number Six, then, you would not be surprised to find that it carried a plus deviation or an overpopulation?

A As I recall, about forty per cent of his population is in the Dallas and Tarrant Counties portions of the district. Those districts will be growing faster than the state. And the southern end of his district, as I recall, is declining. Certainly, Limestone and those counties down through there are. I would assume that if there was any systematic approach taken to it that those two factors would be weighed.

Q Do you know of your own knowledge any district that would be considered to be declining in population that did not carry an overpopulation figure?

A Well, again, I would have to look at the map and look at the figures to really answer that question intelligently. I think it's fair to say that the First Congressional District is an area

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of declining population. It was in the decade of the '60's through the '70's. I think it's fair to say that the Second Congressional District is an area of declining population. And my recollection is, although I'm not sure, I think the Sixteenth, the far West Texas area, is not growing as fast as the state as a whole. And I believe the Fifteenth in South Texas, that would also be true.

Q Both the First, the Fifteenth and the Sixteenth are in extreme corners of the state. Could you tell us

a little bit about the problems involved in redistricting with regard to districts in such extreme corners?

A. Well, actually, when you start from a corner of the state like that, your problem is somewhat solved for you in that you have but one direction to move in. Starting with El Paso, you have obviously got to move west and it's relatively easy to just keep moving—excuse me, you have got to move east. You have got—you just keep moving east until you get to the point where you have got enough population and you drop your line. The same thing is true of the Panhandle district, the Thirteenth. You start at the top of the Panhandle and just come down. The same thing, the

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Fifteenth, from the south. And the First from the northeast. Texas, the population of Texas is such that I think you can start from those extreme corners and work toward the middle of the state and at the same time, start from the popuation centers and work out and not do conflict with each other. I don't think that's ever been done in a congressional bill, but I think it can be done.

Q Do you think it's possible to apply a systematic population growth trend to Texas and come up with a bill that is—

A Yes, I—I do. I think it would be a lot easier if we had censuses every five years instead of every ten years, truthfully, because the economy of Texas is—is changing so rapidly that the census projections for 19—for the decade of the '60's proved to be too conservative in the growth patterns of Dallas-Fort Worth and Harris County and proved to be not conservative enough as to the declining areas in East Texas and West Texas, both.

Q Did any member of the Senate subcommittee relating to this congressional redistricting inform you

as to whether or not they intended to use population trends in preparing the

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districts?

A No, they did not.

Q Did they tell you one way or the other?

A No, they did not.

Q Senator, you had during the direct examination considerable discussion of the problem with House Bill 782 and why it was not acceptable to the Senate. Where is Representative Haynes' home district; do you know?

A He lives in Vidor, which is in Orange County. It's in extreme Southeast Texas.

Q And where does Senator Wilson live; do you know?

A Angelina County. Lufkin.

Q Do you know what the current make-up of the congressional district in that area is at the present time, not with regard to the '72 elections, but as it existed with regard to the '70 elections?

A I know generally what it is. Congressman Dowdy presently occupies that office. His home is in Athens in Henderson County. It's basically an East Texas rural district.

Q Did you have occasion to see a map of House Bill 782?

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A Yes, sir.

Q And see what the district proposed by that bill looked like? Could you describe it to us?

A I think Senator Word's words coined the phrase, "It was a backward C." It was drawn in such a way that Angelina County where Senator Wilson lives was excluded from the district. And as I recall, it curved around like a backward C.

Q Was there a great deal of discussion about this in the press?

A As I recall, there was. The press likes to talk about the salamanders and gerrymanders and lizards and reptilian shapes and they had a field day with these lines.

Q What was the general attitude in the Senate about the proposal by Representative Haynes?

A I think it's fair to say that if the choice were between helping Representative Haynes and Senator Wilson that we in the Senate wanted to help our colleague go to Congress rather than Representative Haynes.

Q Would that same feeling be predominant in the House the other way?

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A I would think so. I never served in the House, but I would just assume that that's true. Senator Wilson's a great salesman for himself and he got as many of us to try to help him with his ambitions as he could. I'm sure Representative Haynes did the same on his side.

A Are you aware that under Senate Bill 1 that particular district now includes both Orange and Angelina County?

A Yes.

Q So that Representative Haynes and Senator Wilson, if they were to announce for the Congress, would have to run opposed to each other?

A Yes. As I understand it, this plan was acceptable to Senator Wilson because the majority of the congressional district is in his present senatorial district that he presently represents.

Q Well, we have had a good bit of testimony on this, but I'm going to ask you once again. In your opinion what was the chance of passing out House

Bill 782 as it was presented in the special session?

A The House substitute for Senate Bill 1—

Q Well, that—

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A —which was in substance House Bill 782?

Q Yes, that's correct.

A There would have been none in my opinion.

Q And Senate Bill 1, how would you characterize that bill with regard to its chance of passage?

A Well, it obviously was going to pass the Senate, because it was the same as the Senate committee substitute for House Bill 782 in the regular session that we had already voted on and passed. I happen to have been in the minority on that, but a majority of the Senate passed it.

Q And what about the House's attitude with regard to it?

A Well, obviously, it was not acceptable to the House as it came over in the special session, because they, then, immediately substituted the provisions of House Bill 782 in the regular session as the House substitute—

Q I suppose what I'm asking you is: With regard to the reports from the conference committee to the Senate and to the House on Senate

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Bill 1, what was the general attitude of the House and the Senate with regard to that conference committee report? I know it passed. What I'm asking you is the general attitude with regard to it?

A The general attitude was that it was one that would get a majority vote in both the House and the Senate, I think, primarily, because everyone was—was exhausted and wanted to pass some kind of a bill and get home. I think that both the House and the Senate more or less took the position that whatever the con-

ference committee comes up with, we're going to vote for so we can quit and get out of here.

Q Well, I'll ask a very dangerous question. Do you think it was a good bill?

A No, sir, I don't or I wouldn't have voted against it. I think a much better plan could have and would have been drawn if we had stayed there.

Q Let me ask you about that. Just how much pressure was there for leaving, getting out and going home at that particular time?

A There was a great deal of pressure. The regular session, I thought, had ended in total

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chaos. Everything got logjammed up toward the end of the session. I remember the last—the last night of the regular session, we had five filibusters going on simultaneously, one within the other. Everyone was aware of the fact that all of us in the Legislature were being criticized because of the SEC case and the alleged involvement of certain members. It had been a physically exhausting last week of the regular session and four or five days of the special session. And so the prevailing mood was to do what had to be done in order to quit and go home.

Q Do you know what the deviation was under the old bill or old senatorial districts that were for the '68 and '70 elections?

A I'm, again, I'm going completely on recollection, but my recollection is, based on the 1960 census figures, it was about eight per cent.

Q I believe I said the old senate districts; I meant the congressional districts.

A Well, I understood your question to be congressional. I think it was about eight per cent, but I—I could be wrong about that.

Q Senate Bill 1 as finally passed out

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carries a little over four per cent deviation; isn't that correct?

A Yes, my understanding that it is.

Q At the time, that late Friday afternoon when the final vote was taken, or Friday morning, as the case may be, would it have been possible to ring in the last minute a bill that carried absolute equality of districts and have it passed out of the Legislature?

A Well, as you know, you can't amend a conference committee report. So technically, the answer to to your question is, no, it couldn't have been done, because you can't amend a conference committee report on the floor.

Q I understand.

A I—I do think that if the leadership of both the House and the Senate would have required the conferees to continue to meet and if they had come up with a plan of less population, that it could have been passed, yes. I think there were better plans rejected than were passed on the question of population.

Q Was the House Bill 782 a better bill in your opinion?

A As far as population variation was

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concerned, it was. It had other defects, in my view, however.

Q Defects which made it impossible to pass out?

A Yes, considering the make-up of the Senate and the ambitions of various people and the pairing of incumbents.

Q What in your experience is the effect of taking a bill which totally redistricts the state and change one area in it; what is the effect of that?

A Well, if it's in an urban area, what you have got to do is to balance however many census tracts

you take away from District A and compensate for that in District B with a certain number of other census tracts. In the rural areas, whatever number of counties you take away from one district, you have got to add on to another one somewhere. It's—in the rural areas it's kind of like the domino theory, really. That's not as much true in the urban areas, because you're dealing with smaller geographical units of more densely populated area.

Q In other words, it does have sort of a domino effect if you go around changing things?

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A Especially in the rural areas, yes. You can—you can pick up as much population in one census tract in Dallas County as you can get from ten counties in West Texas.

Q One final question and I'll quit this. Do you think Senate Bill 1 represented in any manner a good faith effort on the part of the legislators to come up with an acceptable bill?

A Well, I'm sure that—that the people who voted for it voted for it in good faith. I don't—I don't question their good faith at all. I—I voted against it in good faith and I think those who voted against it voted against it in good faith, because, well, for various reasons. I thought a better plan could be devised. I thought it violated the—the guidelines of the Supreme Court and the other courts that had laid down as to, particularly, respecting the concept, as compact and contiguous as possible and community of interests. I'm sure that those who favored the bill did so in absolute good faith. I don't question their sincerity for a minute.

MR. QUICK: That's all.

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REDIRECT EXAMINATION

BY MR. FISCHMAN:

Q I would like to take things in inverse order. The last question Mr. Quick asked you was do you think that they made a good faith effort. I think your answer is, undoubtedly, true. I don't mean to be testifying for the record, but I'm trying to lay a predicate for my question. But I feel that that's a little bit different proposition than what the question called for. I don't think, in other words, that there was any kind of sinister legislative plot to disenfranchise the people of the state of Texas, which, I think, is what your answer would tend to agree with me on. But what we're trying to get at is this: Good faith effort, you admitted in your testimony that the, both houses of the Legislature knew, the conference committee knew, that the presiding officers of both chambers knew that a bill had been passed that had less of a deviation than the bill that was finally reported out. Everybody was in a hurry to get home. Whether that's justifiable or not, it, nonetheless, is the case. The premises on which the bill was passed, protecting incumbents, carving out seats for senators versus carving out

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seats for members of the House, do these things to your way of thinking represent a good faith effort to draw a bill that's as compact, contiguous and numerically equal as practicable?

A You have asked an involved, complicated question, so I'm going to have to give an involved and complicated answer. I, personally, don't think that the question of incumbency is a legitimate, valid consideration in where you draw the lines. I think that the only things that ought to enter into redistricting are those constitutional guidelines that the Supreme Court of the United States and the other courts have held to be required. I think that a better bill could have

been passed and if the Legislature had stayed in session longer, would have been passed. To the extent that the bill may violate some constitutional guideline, I wouldn't ascribe evil motive to an individual who voted for it. It would merely be violating a—a constitutional guideline in which I don't think intent is an element. At the same time, I—I bear no ill will or malice toward any member of the Legislature who votes differently than I do on this or any other question. And the point I was trying to make in

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answer to Mr. Quick's question was I think everyone conscientiously voted his own conscience on the matter. But his conscience may conflict with a constitutional guideline, whether he intends it or not.

Q I think that was precisely the distinction I was trying to make and I think you have answered the question. As I understand it, Senator, and you know more about the law in this area than I would ever pretend to know, good faith is, in light of the Kirkpatrick case, considered pretty much a word of art, is it not?

A Yes, I think so.

Q And encompasses more than malefides or intent or motive; is that correct?

A Yes, I think so.

Q And the answer that you gave to the question propounded by Mr. Quick appeared to me to be directed more to this latter facet, that is, the intent or motive, rather than to the question using the term good faith as a word of art.

A I tried to answer the question as—as I—and perhaps I misunderstood Mr. Quick's question. I understood it to be as to good faith of the members of the Legislature in voting for

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the conference committee report on Senate Bill 1. And

it was in that context that I answered the question. I think each member voted his conscience. And if his conscience, it turns out, is in conflict with some constitutional guideline, he didn't, I don't think, mean to—to say that his conscience was superior to a constitutional guideline. I think each member voted what he considered in his conscience to be right and proper.

Q Senator, we may have already confused the record hopelessly on this issue, but I'm going to approach it one more way. Now, if you can make a distinction between the Legislature and the legislators, (now), can you say that the Legislature made a good faith effort, considering that as a term of art under the Kirkpatrick case, to draw a bill that was as compact, contiguous and numerically equal as practicable?

A No, I don't.

Q All right. (Let me approach it a different way.) Representative Jones in his deposition outlined the procedure for drawing, sitting down with a grease pencil and a plastic overlay, and drawing of the congressional lines. And he says that the trick to it is that you have

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got to go in a circle and come back eventually to the place where you start. Now, you have indicated a different procedure, that is, start in the corners and work toward the middle and work out from the urban areas. Can you analyze for us the merits of one approach over another?

A Well, I think my approach is better than the other approach because of the way the population is situated in Texas and because I think, as I read the cases, the courts require that you do recognize the compact and contiguous requirement and the community of interests requirement, which are best served

by starting from the population centers and working out into the rural areas, rather than working from the rural areas into the urban areas. And because of where the mass of population is in Texas, there's nothing inconsistent with that, in starting at the extreme corners of the state and working inward.

Q In so doing do you work strictly from population or do you have to take into account the county lines?

A I think, as I read the case, that you work strictly on population. I understand the courts to say that there's no such thing as

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de minimis population variation in redistricting.

MR. FISCHMAN: Off the record just a second.

(Off-the-record discussion.)

DIRECT EXAMINATION

BY MR. ROSENBERG:

Q Senator Mauzy, on cross-examination Mr. Quick asked you about the difficulties in drawing a constitutional redistricting plan when one looked at the extreme corners of the state. You discussed, then, Districts Sixteen and Fifteen as examples; Sixteen being on the western edge of the state in El Paso, Fifteen being in the southern edge of the state going north. As—as in terms of defining a district as numerically equal as practicable, would there be any problem, even starting at the extremes, if one were not concerned with county lines?

A No, I don't think so. If you're concerned strictly with population, it's purely a question of proceeding in whatever direction you must proceed until you get to that number.

MR. ROSENBERG: Thank you.

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAN WEISER, DONALD COLEMAN,
JOHN L. EDWARDS, HUGH ELLIOTT,
JOHN W. FLETCHER, JOHN R. KARR,
JOYCE V. KARR, BENJAMIN NEWCOMB,
NORMA PALMER, MARVIN ZIMET,
Plaintiffs

No. CA-3-5202-D

vs.

HONORABLE BOB BULLOCK,
SECRETARY OF THE STATE,
OF THE STATE OF TEXAS

BE IT REMEMBERED that on the 21st day of January, 1972, at 10:00 o'clock A. M., the following proceedings were had in the above styled and numbered cause before Honorable JOE INGRAHAM, Fifth Circuit, Honorable W. M. TAYLOR, JR.; and Honorable ROBERT M. HILL, United States District Judge in and for the Northern District of Texas, held in session in the Dallas Division in Dallas, Dallas County, Texas:

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(P. 10)

PLAINTIFFS' OPENING ARGUMENT

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(P. 14)

* * *

If the discrimination is on the basis of race, Plaintiffs have the burden to show it does, everything else equal, but if it gets down to equality of districts, I don't believe that stands for that proposition. We have the burden shifted.

JUDGE INGRAHAM: Well, I didn't know we had a racial case here. I thought this was a case on the population, distribution of population.

MR. ROSENBERG: That is correct, Your Honor; this is not a race case. If it were I would say that the burden does fall on Plaintiff to show the disparity.

JUDGE INGRAHAM: Very well.

MR. ROSENBERG: We had it in our pleadings initially and took it out. We do not—

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(P. 21)

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The House of Representatives passed a bill called H.B. 782. Its per cent of deviation error was 2.5 per cent. It went to the Senate.

The senators didn't like it, because this green—this right here, what they call the backward C (indicating), that existed and that was political gerrymandering.

That was going to let Representative Haynes go to congress, instead of Senator Wilson.

JUDGE INGRAHAM: That is speculation, too, isn't it?

MR. ROSENBERG: Well, we have got some testimony about that, Your Honor, and the Court can consider

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it or not.

JUDGE INGRAHAM: Do you mean that was in their mind?

MR. ROSENBERG: Oh, yes, sir.

JUDGE INGRAHAM: That was the purpose for them drafting what they did draft?

MR. ROSENBERG: Oh, yes.

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Let them draw a plan the way they are going to draw it, but the last thing they have to do is to subvert those desires and just adjust it for numerical equality.

Our Plan B, the plan in red on your small maps we provided you, is just that.

We took Senate Bill 1, with the 4.1 per cent variance, nineteen thousand and some odd people, and adjusted some lines and wound up with one-tenth of one per cent off, less than 700 people apart.

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* * *

With Texas' history, I submit that the Court should order our Plan B implemented, which takes, in effect, what they want it to do, except that we have adjusted it to get the numbers down, to be concerned about numerical equality, down to less than one-tenth of one per cent.

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That we retain jurisdiction, that we say, "Legislature, enact a better one or as good a one, and you do it"—fine.

But, at least, we will have the opportunity to go to the polls next November on a constitutional plan.

Thank you.

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MR. FISCHMAN: Well, frankly, I don't know, Your Honor, but I think if Congressman Mahon is that good a congressman, he could get re-elected, no matter what the shape of that district was. He might have trouble getting re-elected in the Barbara Jordan district down here, but—

JUDGE INGRAHAM: Particularly, if he was running against her.

JUDGE HILL: She is not a congressman, is she?

MR. FISCHMAN: No, she is an announced candidate.

JUDGE HILL: Oh, I see.

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JUDGE HILL: Is this the high water mark or design of a district for a particular individual—we are talking about East Texas primarily, and I was wondering.

MR. FISCHMAN: Well, I think it—I am really not that politically astute, Your Honor, to tell what problems have been created.

I would submit that possibly the Fifth District here in Dallas, Congressman Cabell's district, might fall into that category, too.

Reverend Holmes testified extensively about that,

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as did Senator Mauzy, although they don't quite end up at the same place on the question.

There is no doubt about it that Congressman Cabell's district was over-populated, and it needed to be cut down, and they just very conveniently removed ten black precincts from his district that he had had

trouble with in every primary since he had been running.

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JUDGE HILL: Are you suggesting that we adopt Plan B on a temporary basis—?

MR. FISCHMAN: That is precisely—

JUDGE HILL: (Continuing)—And keep the case under advisement?

MR. FISCHMAN: I feel this, Your Honor—

The Court expressed concern in the pre-trial conference about filing deadlines, and that was a matter of raising the question; nothing was really discussed or decided.

But, we submit to the Court that the Court should declare S.B. 1 unconstitutional, and therefore void and enjoin its enforcement.

We suggest, number two, that the Court enter appropriate orders requiring the primary and general elections to be held under Plan B, which is outlined in red on our map.

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DEFENDANTS' ARGUMENT

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There was quite a fight over whether Representative Haynes or Senator Wilson should have a district constructed for their purposes, and whether or not Representative Haynes should be benefited by the gerrymander as it is drawn presently (indicating.)

Representative Haynes and Senator Wilson are

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both in the same congressional district, they can both

run for congress, and the people can choose which of them they desire.

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JUDGE INGRAHAM: I think I can understand cutting Ector County, but I see someone's plan here with a line running through the middle of Jeff Davis County.

Why would anyone want to divide Jeff Davis? There is not a handful of people there. It is populated largely by jackrabbits and billy goats.

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PLAINTIFFS' CLOSING ARGUMENT

* * *

If these extraneous and, I submit, impermissible factors had not been the predominant feature of this piece of legislature, (sic) if the Legislature had not at the taxpayers' expense made two trips to Washington, and then they would have come up with a bill wtih the population as the sole test—not the sole test, but if population was the primary test then these other factors were secondary, then it would have come up with this (indicating).

The blue lines on this map represent S.B. 1.

The red lines here represent our Plan B, which

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the Court can see takes almost exactly the same thing—it doesn't pit any more incumbents against another; it leaves Mr. Wilson free to run against Mr. Haynes, or whoever wants to run, but yet is less than 700 people from top to bottom, as opposed to 19,000.

If, in fact, the population was the primary concern of the Texas Legislature enacting S.B. 1, they would

have come up with the red map instead of the blue one.

Now, I want to say, mention a word or two about this business that Mr. McDaniel points out, and my partner alluded to in his early part of his argument.

It is not really a bad plan, if you destroy all of the bad features.

As Senator Word testified, they couldn't apply population—they couldn't apply population equalities; they couldn't do anything; they got boxed in in these areas (indicating); they couldn't do anything.

But the reason—the reason, as set forth in Page 35 of our appendix is, they didn't want to cut across county lines.

Well, that argument is answered very simply; they did it here in Ector County; there are other

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county lines cut on this map. Where they had to they did it.

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(P. 73)

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Now, I think this: I think the sum total of the state's argument is that this is the best bill they could get through the legislature.

This reasoning is wholly rejected—

JUDGE INGRAHAM: I think that is sad. I agree it was probably the best you could do.

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If they had started with the right approach; if they had started with the numbers and stayed with it, they would have come out with our Plan B, and yet

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accomplish virtually the same thing as they set out to accomplish.

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(P. 78)

* * *

JUDGE INGRAHAM: Well, if we did that, how soon could it be implemented? And, if we did that, that leads me to the next question:

What can we do? Do we have any authority to redistrict the State of Texas?

MR. FISCHMAN: I think there is ample authority, Your Honor, under many, many cases.

The most recent case, *Bussey versus The Governor of Louisiana*, a congressional redistricting case, is as yet unreported. And there are a number of these cases.

I think the Court's remedies—of course, the Court's powers and remedies in these cases is virtutally wide open.

But, in that case, the court referred the case to a Special Master, and he took all sorts of evidence on what would be an appropriate plan. He made a report and the court heard the report, heard all

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of the exceptions to the report, and then said, "The way the Master drew the plan is the way it is going to be."

JUDGE INGRAHAM: I wouldn't want to employ a master. That would be just one more idea, one more plan, one more than we have.

MR. FISCHMAN: We haven't asked for it, but we suggest, by way of remedy of this Court, is that our Plan B, which the details all of which are admitted in the pleadings and stipulations, can be implemented, and, as we say, is almost identical to the plan that was enacted by the legislature, but it is less than 700 people from top to bottom, rather than 20,000.

That plan could be ordered by this Court, unless the legislature enacts a better plan.

* * *

(P. 80)

So far as the matter of politics, that would be solved, too, because every candidate would have a constitutional bill, a district apportionment act to run under, and he could file in the district proposed by our Plan B.

* * *

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED